

89-517①

Supreme Court, U.S.

FILED

SEP 25 1989

JOSEPH F. SPANIOL, JR.  
CLERK

No. \_\_\_\_\_

SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_

October Term, 1989

\_\_\_\_\_

ROBERT WOODS,

Petitioner,

vs.

JOSEPH E. HUDAK,

Respondent.

\_\_\_\_\_

Writ of Certiorari  
to the United States Court  
of Appeals for the Third Circuit

\_\_\_\_\_

PETITION FOR WRIT OF CERTIORARI

\_\_\_\_\_

JOHN M. SILVESTRI, ESQ.  
Attorney for Petitioner  
828 Frick Building  
437 Grant Street  
Pittsburgh, PA 15219-6002  
(412) 391-0958

227





## I. QUESTION PRESENTED FOR REVIEW

WHERE THE DISTRICT COURT (1) WITHDREW FROM THE BANKRUPTCY COURT ITS REFERENCE OF AN INJUNCTION ACTION RELATED TO A THEN-PENDING BANKRUPTCY CASE, (2) ENTERED AN ORDER APPROVING A STIPULATION TO PROTECT THE PROPERTY OF THE DEBTOR'S ESTATE, AND (3) AFTER THE BANKRUPTCY CASE WAS DISMISSED, CONDUCTED FURTHER PROCEEDINGS TO ENFORCE SAID ORDER PROTECTING THE PROPERTY OF THE DEBTOR'S ESTATE, DID THE CIRCUIT COURT OF APPEALS ERR IN AFFIRMING SAID FURTHER PROCEEDINGS SUBSEQUENT TO THE DISMISSAL OF THE UNDERLYING BANKRUPTCY CASE, IN THAT (A) THE JURISDICTION OF THE DISTRICT COURT WAS ORIGINALLY INVOKED AS "RELATED TO" A BANKRUPTCY CASE; (B) THE CONDUCT REGULATED BY SAID ORDER WHILE SAID BANKRUPTCY CASE WAS PENDING WAS TO PRESERVE THE PROPERTY OF THE DEBTOR'S ESTATE; (C) THERE WAS NO INDEPENDENT JURISDICTIONAL BASIS FOR THE SUBJECT MATTER OF THE PROCEEDING; AND (D) THE CONTINUED EXERCISE OF JURISDICTION OF THE DISTRICT COURT AFTER THE DISMISSAL OF THE BANKRUPTCY CASE CANNOT BE RELATED TO THE PRESERVATION OF THE PROPERTY OF THE ESTATE?<sup>1</sup>

---

<sup>1</sup>In the Injunction Action, there were two other parties who are co-defendants with your Petitioner, and they are neither petitioners nor respondents herein, i.e., Michael S. Geisler and Richard O'Brien.



## II. TABLE OF CONTENTS

	<u>Page</u>
I. Question Presented For Review. . .	1
II. Table Of Contents. . . . .	2
III. Table of Authorities . . . . .	3
IV. References To The Official And Unofficial Reports Of Opinions Delivered By The Courts . . . . .	5
V. Concise Statement Of The Grounds On Which The Jurisdiction Of This Court Is Invoked. . . . .	6
VI. Statutes Which The Case Involves. . . . .	7
VII. Concise Statement Of The Case. .	8
VIII. Argument . . . . .	14



### III. TABLE OF AUTHORITIES

	<u>Page</u>
Hudak v. Woods, 91 B.R. 718 (W.D. Pa., 1988). . . . .	5
In re Franklin, 802 F.2d 324 (9th Cir., 1986). . . . .	.26, 27
In re Petty, 848 F.2d 655 (5th Cir., 1988). . . . .	.14, 29, 30
Murphy v. John Hoffman Co., 211 U.S. 562, 29 Supreme Ct. 154, 53 L.Ed. 327 (1909). . .	.29
Nationwide Mutual Fire Insurance v. T&D Cottage Auto, 705 F.2d 685 (3rd Cir., 1983). . . . .	.27
Northern Pipeline Construction Co. v. Marathon Pipeline Co., 458 U.S. 50, 102 Supreme Ct. 2858, 73 L.Ed.2d 590 (1982) . . .	.10, 16, 20
Railway Labor Executives' Assn. v. Gibbons, 455 U.S. 457, 102 Supreme Ct. 1169, 71 L.Ed.2d 335 (1982) . . . .	16, 17, 23, 25
Turner v. The President, Directors and Company of the Bank of North America, 4 Dall. 7, 1 L.Ed. 718 (1799). . . . .	.17, 18, 19



<u>Table of Authorities (Cont.)</u>	<u>Page</u>
Bankruptcy Code, Title 11, Chapter 5 . . . . .	.24
Bankruptcy Code, Title 11, Chapter 7 . . . . .	.24
Supreme Court Rule 20.2. . . . .	6
U.S. Constitution, Art. I, Sec. 8, Cl. 4 . . . . .	.15, 16
U.S. Constitution, Art. I, Sec. 8, Cl. 18. . . . .	.15
U.S. Constitution, Art. III, Sec. 2, Cl. 1 . . . . .	.15
11 U.S.C. §101, et seq.. . . . .	.15
11 U.S.C. §349 . . . . .	.24, 28, 29
11 U.S.C. §541 . . . . .	.23
28 U.S.C. §157 . . . . .	.10, 16, 22
28 U.S.C. §1334. . . . .	.7, 10, 16, 19, 22, 25, 27
28 U.S.C. §1335. . . . .	.27
28 U.S.C. §1441. . . . .	.10
28 U.S.C. §1471. . . . .	.16, 19, 27
28 U.S.C. §2101(c) . . . . .	6





IV. REFERENCES TO THE  
OFFICIAL AND UNOFFICIAL  
REPORTS DELIVERED BY THE COURTS

The Opinion in the United States Court of Appeals for the Third Circuit at Nos. 89-3030, 89-3043, 89-3069 and 89-3070 was not for publication and is appended at A-1.

There are a series of slip opinions in the United States District Court for the Western District of Pennsylvania at Civil Action No. 87-1999 as follows:

The Memorandum Opinion of October 1, 1987 following the Consent Decree stipulation of September 30, 1987 is appended at A-55.

The Memorandum Opinion of October 21, 1988 denying the Motion to dismiss district court proceedings after the dismissal of the bankruptcy case is reported at Hudak v. Woods, 91 B.R. 718 (W.D. Pa., 1988) and is appended at A-64.



The Opinion of December 22, 1988 which incorporates Findings of Fact and Conclusions of Law following a series of hearings in the district court after the dismissal of the bankruptcy case is appended at A-79.

The Memorandum Opinion of January 3, 1989 following post-trial motions in respect of the December 22, 1988 adjudication is appended at A-188.

V. CONCISE STATEMENT  
OF THE GROUNDS ON WHICH  
JURISDICTION OF THIS COURT IS INVOKED

Jurisdiction for this Petition for Writ of Certiorari is pursuant to 28 U.S.C. §2101(c) and Supreme Court Rule 20.2 which provide for the filing of a Writ of Certiorari intended to bring before the United States Supreme Court a judgment in a civil action for review from a United States Court of Appeals.



The date of the judgment sought to be reviewed is June 28, 1989, which judgment was entered in the United States Court of Appeals for the Third Circuit.

VI. STATUTES WHICH THE CASE INVOLVES

This case involves the bankruptcy jurisdiction statute at 28 U.S.C. §1334(a), (b) and (d) as follows:

28 U.S.C. §1334.

Bankruptcy cases and proceedings.

(a) Except as provided in subsection (b) of this section, the district court shall have original and exclusive jurisdiction of all cases under Title 11.

(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising



under Title 11, or  
arising in or related  
to cases under  
Title 11.

\* \* \*

(d) The district court  
in which a case under  
Title 11 is commenced  
or is pending shall  
have exclusive  
jurisdiction of all of  
the property, wherever  
located, of the debtor  
as of the commencement  
of such case, and of  
property of the  
estate.

#### VII. CONCISE STATEMENT OF THE CASE

This proceeding commenced on  
September 16, 1987 as an Ex Parte Motion  
For A Temporary Restraining Order (the  
"Injunction Action") by the debtor in  
bankruptcy in the United States  
Bankruptcy Court for the Western  
District of Pennsylvania during the  
pendency of a bankruptcy case (A-192).  
The underlying bankruptcy case was filed  
July 15, 1987.





Pursuant to a stipulation for "Consent Order" entered September 30, 1987 (A-203) in the Injunction Action, the district court entered an Order on October 1, 1987 (A-208) withdrawing it's reference of said Injunction Action to the district court.

The subject matter of said Injunction Action was to prevent certain parties, including your Petitioner, from interfering with the property of the debtor's estate consisting of contractual relations of the debtor. Although the debtor did not plead in his Injunction Action the basis of jurisdiction in the bankruptcy court or the district court, and although nowhere in the series of Opinions in the district court is there a statutory reference to the jurisdiction of the bankruptcy court or the district court, it is acknowledged that the subject



matter of the Injunction Action at the time the same was filed and at the time the stipulation of "consent order" was entered was clearly pursuant to 28 U.S.C. §1334(a), (b) and (d) as set forth in the Opinion of the Court of Appeals (A-22), as well as 28 U.S.C. §1441(a), (b) and (e) (to the extent not declared void in the case of Northern Pipeline Co. v. Marathon Pipeline Co., 458 U.S. 50, 73 L.Ed.2d 598, 102 Supreme Ct. 2858 [1982]) and 28 U.S.C. §157. All of said statutory bases of jurisdiction require that said Injunction Action be "related to" or "arising under" a bankruptcy case. There is no other jurisdictional basis for the Injunction Action, except as being "related to" the underlying bankruptcy case.

On November 30, 1987, the underlying bankruptcy case was dismissed



without any retention of jurisdiction (A-210).

On March 31, 1988, after the dismissal of the bankruptcy case, the debtor filed a Motion for Contempt (A-212) in respect of alleged conduct subsequent to the dismissal of the underlying bankruptcy case on the part of your Petitioner and others. A second similar Motion for Contempt was filed by the Debtor April 7, 1988 (A-241), as well as additional similar Motions for Contempt, however, only said March 31, 1988 and April 7, 1988 Motions for Contempt were the subject of district court hearings.

On September 23, 1988, your Petitioner filed in the district court a Motion to dismiss said contempt proceedings (A-247) averring, inter alia, the lack of jurisdiction over the subject matter of the debtor's Motions



for Contempt given the fact that the bankruptcy case had been dismissed the preceding year and the stipulation of "consent order" and the district court Order of October 1, 1987 regulating the conduct of the debtor, your Petitioner and others, vis-a-vis one another, was no longer "related to" or "arising under" the bankruptcy case or otherwise necessary for the preservation of the property of the debtor's estate. Said Motion to dismiss the contempt proceedings was denied by a district court Order dated October 21, 1988 (A-254).

Following a series of hearings on said debtor's Motions for Contempt, the district court entered an Order dated December 22, 1988 finding contempt and providing direction for a means by which your Petitioner and the other parties could purge themselves from contempt,





along with supplemental prohibitions relative to the future conduct of the debtor, your Petitioner and the other parties to the Injunction Action (A-255). Post-trial motions, including a Motion for Reconsideration, were filed by your Petitioner and the other co-defendants, all of which were denied by a district court Order of January 9, 1989 (A-269).

Your Petitioner and the other Injunction Action defendants filed timely appeals to the United States Court of Appeals for the Third Circuit, which affirmed the district court's contempt Order of December 22, 1988, but with modifications as to certain restrictions placed upon the parties by the district court. The issue as to the jurisdiction of the district court for conducting proceedings postdating the dismissal of the bankruptcy case on November 30, 1987 was decided favorably to the debtor, the Respondent herein.



Since the disposition of the Petitioner's appeal in the United States Court of Appeals for the Third Circuit, the district court has continued to exercise jurisdiction over the conduct of the parties, including your Petitioner.

#### VIII. ARGUMENT

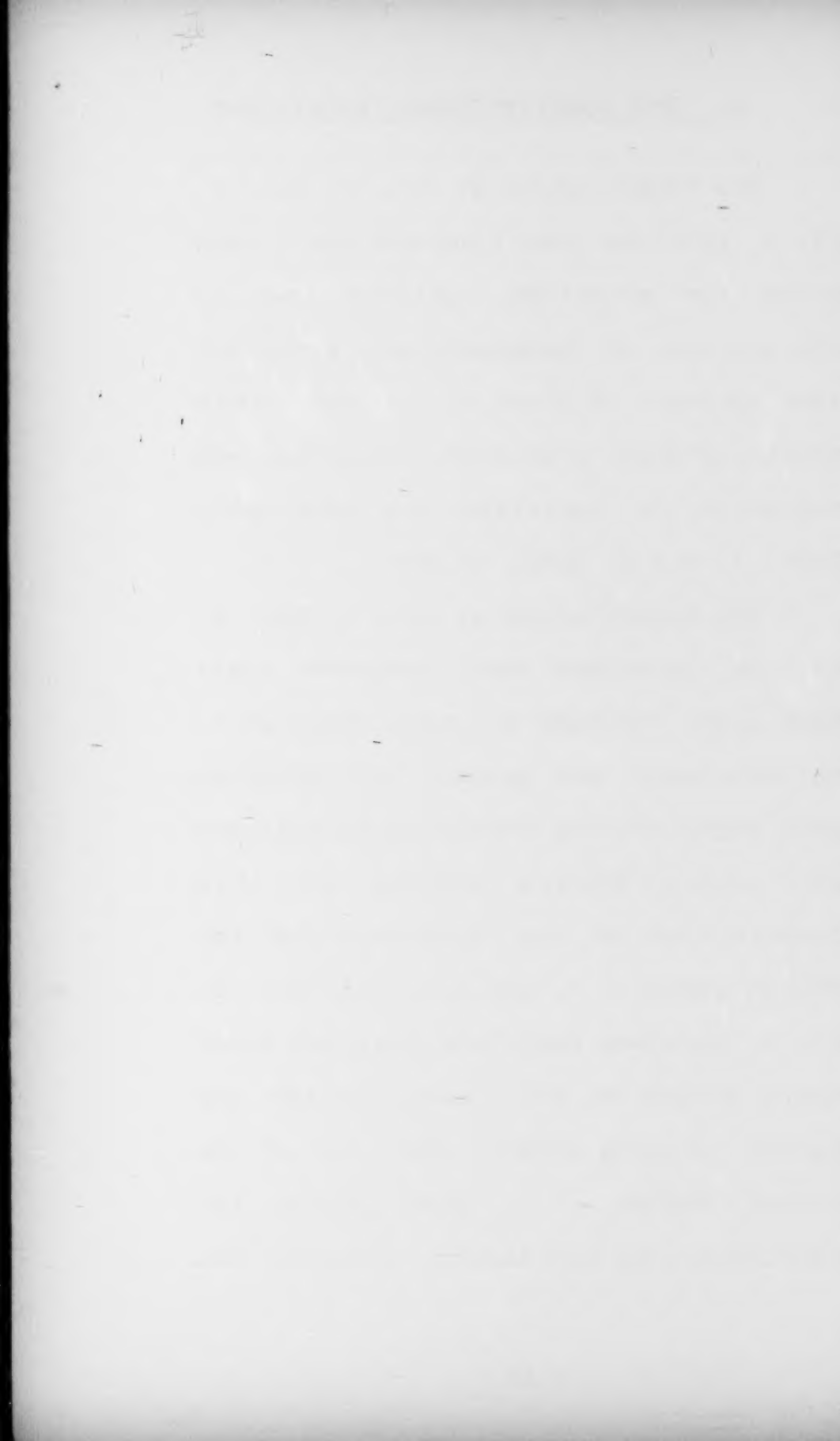
It is respectfully suggested that the United States Court of Appeals for the Third Circuit has rendered a decision which is in conflict with In re Petty, -848 F.2d 655 (5th Cir., 1988), and has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of jurisdiction by the Supreme Court.



## A. THE CONSTITUTIONAL PROVISIONS

The Constitution at Art. I, Sec. 8, Cl. 4, provides that Congress shall have power "to establish...uniform Laws on the subject of Bankruptcies throughout the United States." Under this constitutional provision, Congress was empowered to legislate the Bankruptcy Code, 11 U.S.C. §101, et seq.

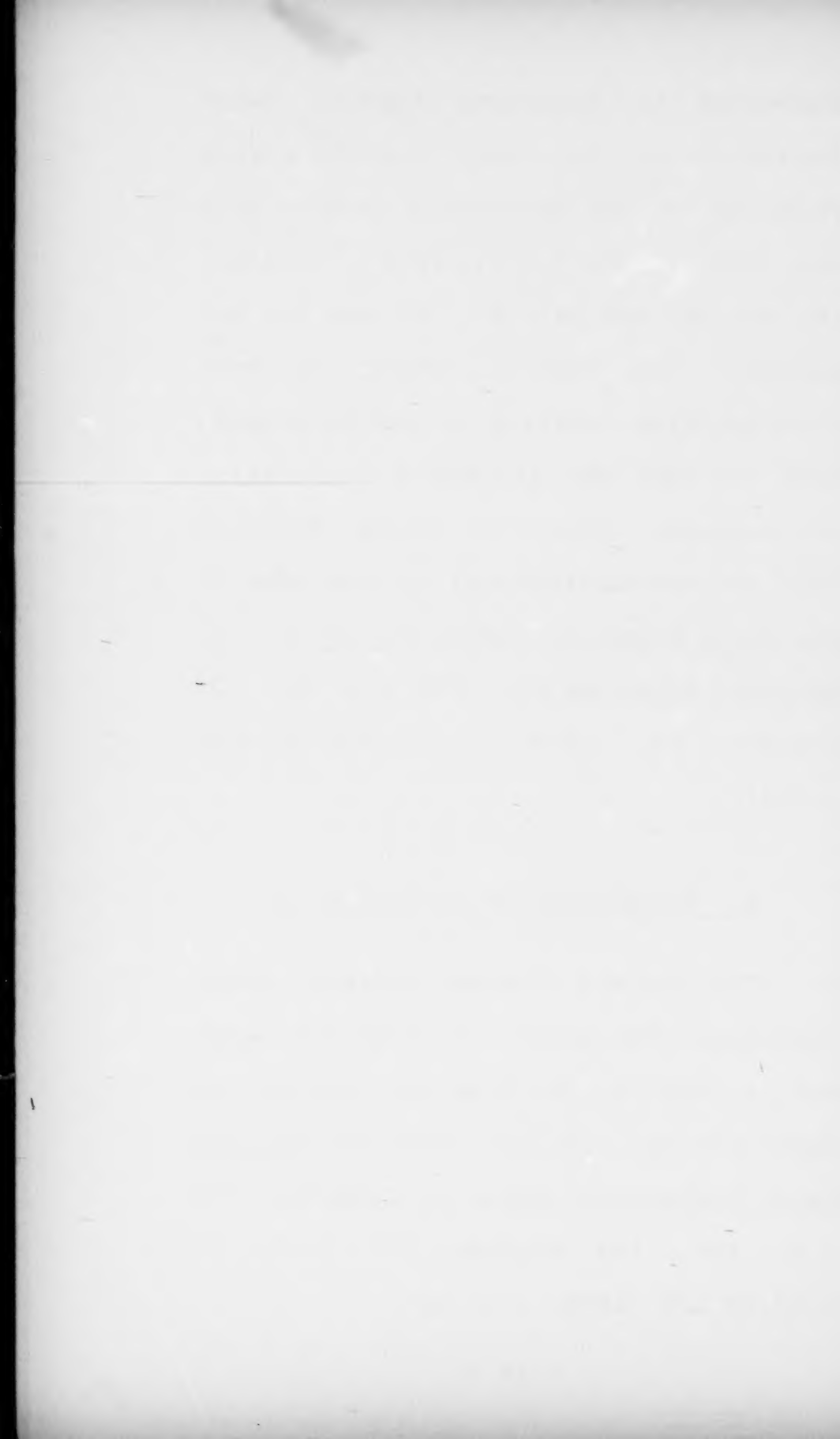
The Constitution at Art. I, Sec. 8, Cl. 18, provides that Congress shall have power "to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States...", and Art. III, Sec. 2, Cl. 1, provides that "the judicial Power shall extend to all cases, in Law and Equity, arising under...the Laws of the United States...". Under these two constitutional provisions, Congress was



empowered to legislate federal court jurisdiction to hear controversies relating to the Bankruptcy Code. This was done at 28 U.S.C. §§157, 1334(a), (b) and (d) and 1471(a), (b) and (e) and empowers the federal courts to hear controversies relating to the Bankruptcy Code through the aforesaid legislation of Congress (§1471(c) being declared void as unconstitutional in the case of Northern Pipeline Construction Co. v. Marathon Pipeline Co., 458 U.S. 50, 102 Supreme Ct. 2858, 73 L.Ed.2d 590 [1982])).

#### B. PRINCIPLES OF JURISDICTION

The United States Supreme Court discussed the power of Congress under Art. I, Sec. 8, Cl. 4 on the "subject of bankruptcies" in the case of Railway Labor Executives' Assn. v. Gibbons, 455 U.S. 457, 102 Supreme Ct. 1169, 71 L.Ed.2d 335 (1982) stating:





Although we have noted that "[t]he subject of bankruptcies is incapable of final definition," we have previously defined "bankruptcy" as the "subject of the relations between an insolvent or non-paying or fraudulent debtor and his creditors, extending to his and their relief." [Citations omitted.] Congress' power under the Bankruptcy Clause "contemplate[s] an adjustment of a failing debtor's obligations." Ibid. This power "extends to all cases where the law causes to be distributed, the property of the debtor among his creditors." [455 U.S. at 466, 71 L.Ed.2d at 344]

In the case of Turner v. The President, Directors and Company of the Bank of North America, 4 Dall. 7, 1 L.Ed. 718 (1799), the basic principle of the federal courts being courts of limited jurisdiction was set forth and



has been consistently embraced since then. In Turner, it is stated:

A circuit court, however, is of limited jurisdiction; and has cognizance, not of cases generally, but only of a few specially circumstanced, amounting to a small proportion of the cases, which an unlimited jurisdiction would embrace. And the fair presumption is (not as with regard to a court of general jurisdiction, that a cause is within its jurisdiction unless the contrary appears, but rather) that a cause is without its jurisdiction til the contrary appears. This renders it necessary, inasmuch as the proceedings of no court can be deemed valid further than its jurisdiction appears, or can be presumed, to set forth upon the record of a circuit court, the facts or circumstances, which give jurisdiction, either expressly, or in such a manner as to render them certain by legal intendment.



[4 Dall. at 10,  
1 L.Ed. at 719]

### C. JURISDICTIONAL STATUTES

The statutes providing jurisdiction for the courts to adjudicate disputes relating to the Bankruptcy Code are at 28 U.S.C. §1334(a), (b) and (d) a re-enactment of §1471(a), (b) and (e) and they give very broad jurisdiction to the district courts in bankruptcy cases through the use of the language at both 28 U.S.C. §§1334(b) and 1471(b) which states in pertinent part:

...the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under Title 11 or arising in or related to cases under Title 11.

This broad statutory grant of jurisdiction by Congress was recognized



in Northern Pipeline, supra., which stated:

This jurisdictional grant empowers bankruptcy courts to entertain a wide variety of cases involving claims that may affect the property of the estate once a petition has been filed under Title 11. [Emphasis supplied; 458 U.S. at 54, 73 L.Ed.2d at 604]

C. THE "OUT OF BOUNDS"  
JURISDICTION EXERCISED IN THIS CASE

In this case, neither the district court's Memorandum Opinion (A-64) denying your Petitioner's Motion to Dismiss the district court proceedings nor the district court Opinion (A-79) adjudicating contempt made any analytical discussion of the statutory jurisdictional basis for jurisdiction, however, the district court Opinion adjudicating contempt stated:





This action came to me as acting Miscellaneous Judge while the members of the district court and bankruptcy court attended a judicial conference in Philadelphia. It came as an adversary proceeding related to a bankruptcy case which had been initiated on July 15, 1987 by Yaier Y. Lehrer, Esq. on behalf of creditors against Joseph E. Hudak, an attorney.

When I saw that possible harm was being done not only to the plaintiff, but to a multitude of innocent clients who had paid money to have bankruptcy and divorce cases filed and processed, and with possible disrepute and harm to the legal profession and the courts, I accepted the matter as a district court action with equitable concerns and powers and accepted jurisdiction of the case for the purpose of seeing that public justice was done.

[A-79]

7

It is acknowledged that when the debtor's Injunction Action (A-192) was filed in the bankruptcy court while the debtor's bankruptcy case was pending, and when the district court withdrew the Injunction Action pursuant to 28 U.C.S. §157(d) under the stipulation for "consent order" of the parties (A-203) approved by the district court by its Order entered October 1, 1987 (A-208) there was jurisdiction under 28 U.S.C. §1334. However, at the time said Motions for Contempt were filed in the district court on March 31, 1988 (A-212) and on April 7, 1988 (A-241), after the dismissal of the underlying bankruptcy proceeding for alleged conduct postdating the dismissal of the underlying bankruptcy proceeding there was no jurisdiction.

The reason jurisdiction is acknowledged at the time the Injunction



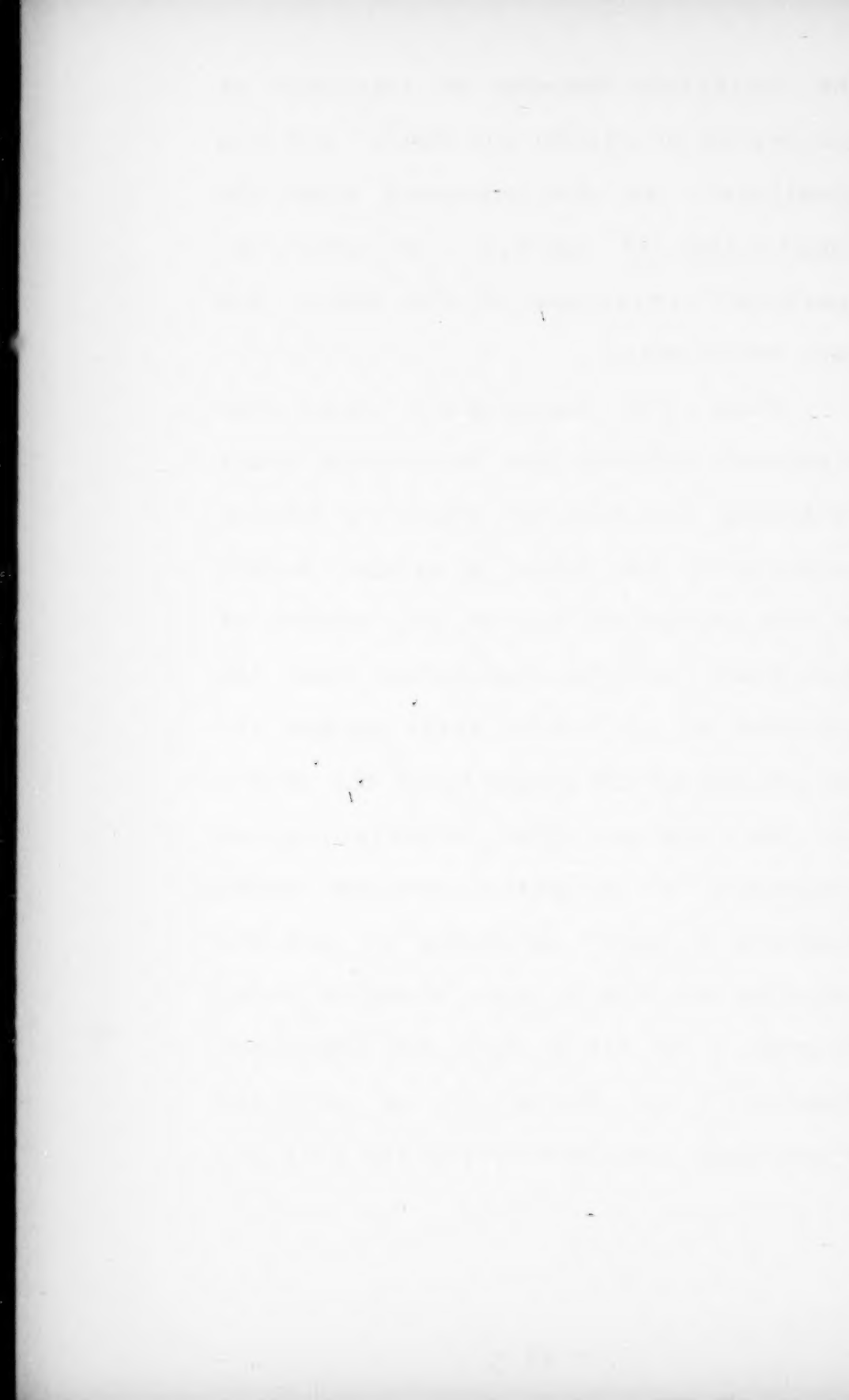
Action was filed during the pendency of the underlying bankruptcy case is because the Injunction Action sought to enjoin your Petitioner from interfering with the debtor's contractual relations with his clients, which contractual relations were "property of the estate" under 11 U.S.C. §541. Accordingly, it follows that the Order entered October 1, 1987 was not only jurisdictionally proper, but appropriate, for the protection of the property of the debtor's estate and for the purposes of regulating the "relations between an insolvent or non-paying or fraudulent debtor and his creditors; see Railway Labor Executives' Assn., supra.

The purpose and intent of the Order could only have been in relationship to the preservation of the property of the debtor's estate and the regulation of



the "relations between an insolvent or non-paying or fraudulent debtor and his creditors", as distinguished from the regulation of merely "private" or "personal" relations of the debtor and your Petitioner.

When the bankruptcy case was dismissed without the bankruptcy court retaining jurisdiction over any of the property of the debtor's estate (A-210) or the Injunction Action the "effect of dismissal" of the bankruptcy case (as provided at 11 U.S.C. §349) caused the re-vesting of the property of the estate in the debtor, the reinstating of transfers of property avoided under Chapters 5 and 7 of Title 11 and the vacating of orders and judgments under Chapter 5 of Title 11. The important Chapter 5 of Title 11 is entitled "Creditors, the Debtor, and the Estate".





After the dismissal of the subject bankruptcy case, it only makes sense that the district court's jurisdiction over the Injunction Action was terminated and relinquished. The enforcement of any orders made "...arising under...or arising in or related to cases under Title 11" (28 U.S.C. §1334[b]) became moot, in that there was no estate of the debtor and there were no "relations between an insolvent or non-paying or fraudulent debtor and his creditors (Railway Labor Executives' Assn., supra.).

The Order of October 1, 1987 regulating the property of the debtor's estate and the "relations between an insolvent or non-paying or fraudulent debtor and his creditors" was in effect vacated upon the dismissal of the underlying bankruptcy case.



The Opinion of the Third Circuit Court of Appeals in sustaining the district court's exercise of jurisdiction was based upon a misinterpretation of In re Franklin, 802 F.2d 324 (9th Cir., 1986), which permitted a bankruptcy court to construe a relief from stay order made in a prior bankruptcy proceeding for the same debtor in a subsequent (third) petition for bankruptcy. As the Franklin court stated:

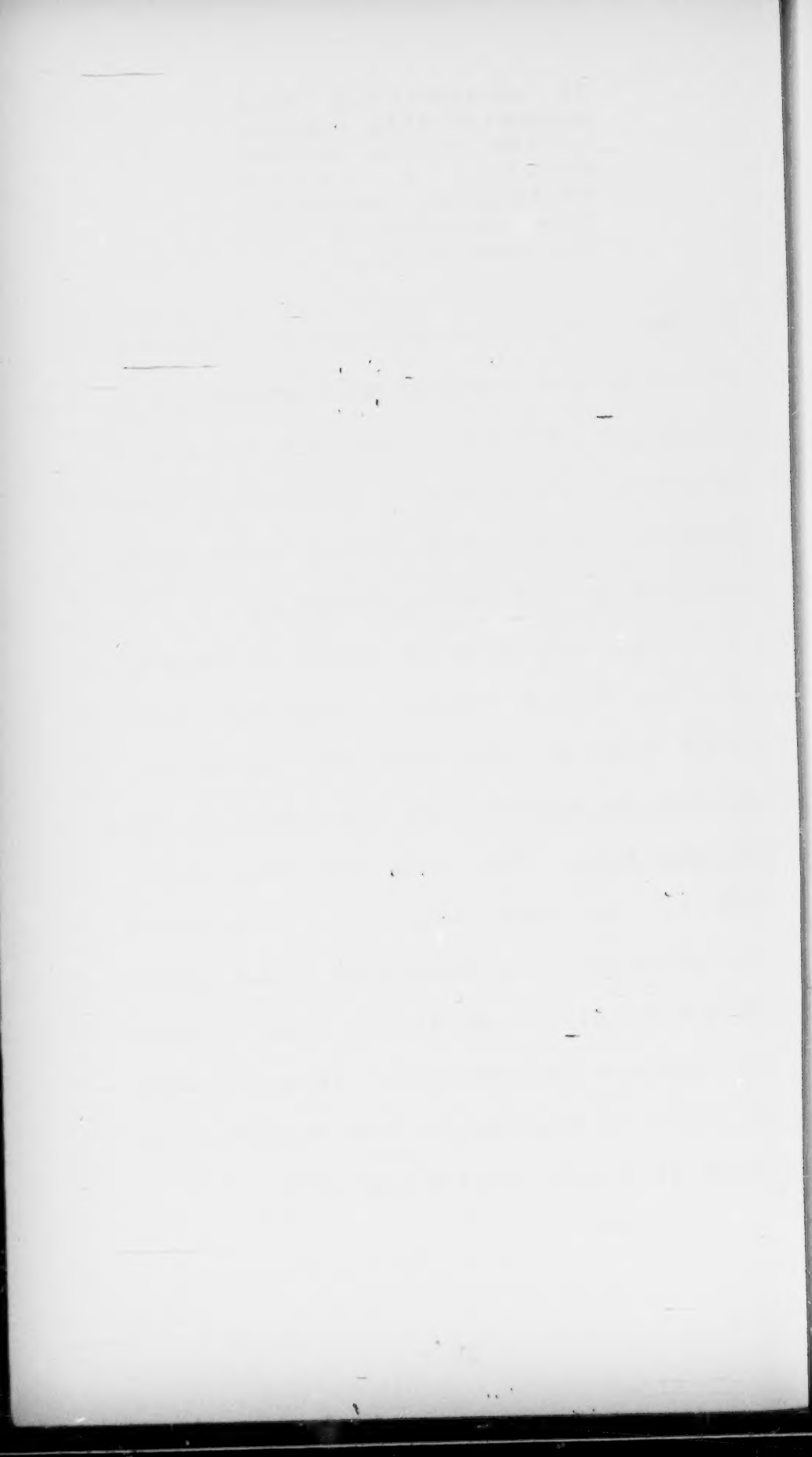
Beneficial Trust's ex parte application to determine the validity of the June 14 foreclosure sale was basically in the nature of a declaratory judgment action requiring the bankruptcy court to construe the validity and effect of its prior order. The application required Judge Lasarow to decide whether Judge Dooley's order of the court entering the stipulation of the parties had the effect



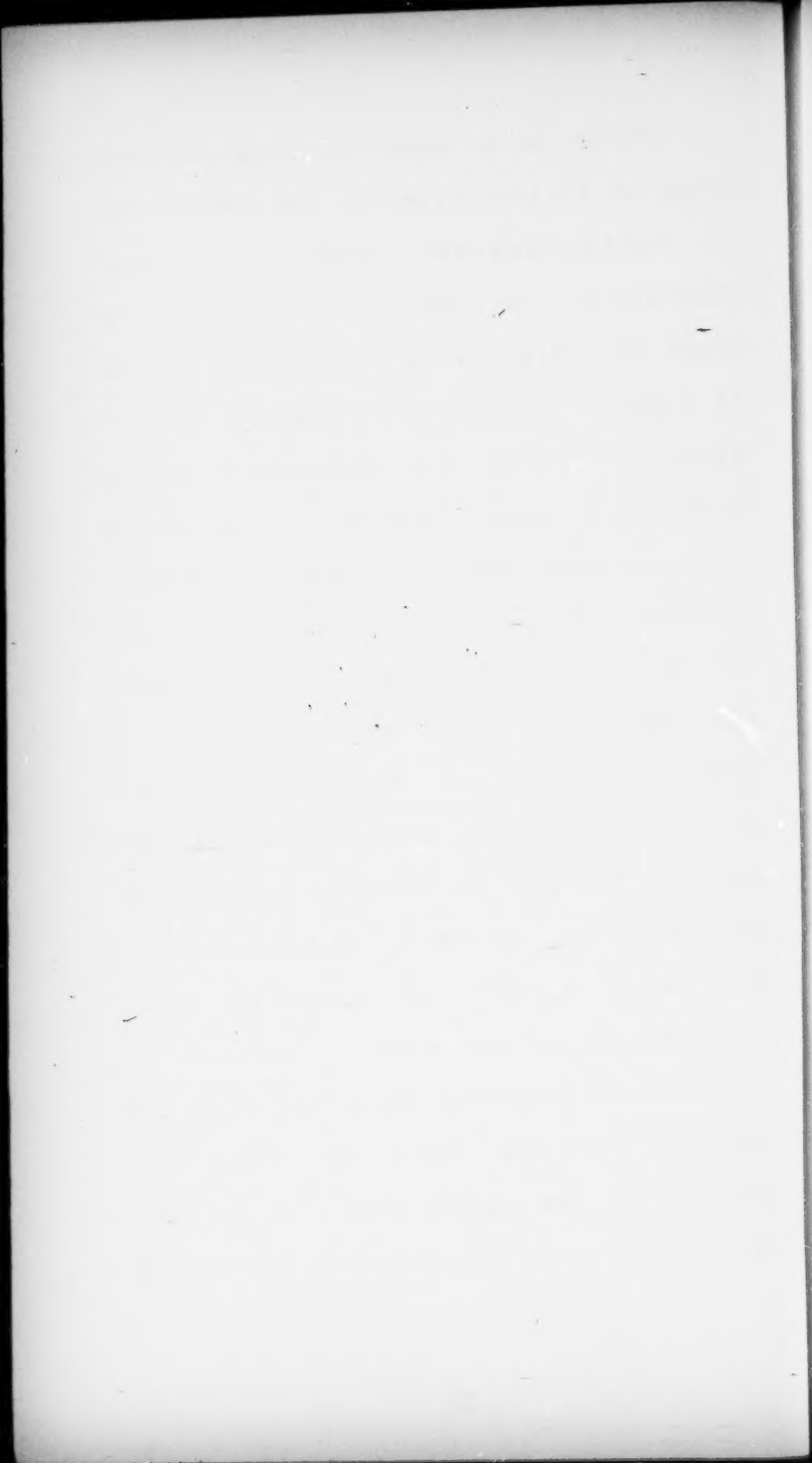
of preventing the automatic stay imposed by the filing of the debtor's third bankruptcy petition from interfering with the June 14 sale.

In fact, when the declaratory judgment action by the creditor of Franklin In re Franklin sought the declaratory judgment, there was a bankruptcy case pending, i.e., the third bankruptcy petition by the debtor Franklin!

Also, the Circuit Court of Appeals for the Third Circuit inappropriately cited one of its previous decisions, Nationwide Mutual Fire Insurance v. T&D Cottage Auto, 705 F.2d 685 (3rd Cir., 1983), on the topic of "pendent jurisdiction" (a diversity case under 28 U.S.C. §1335) as if the same concept of "pendent jurisdiction" is applicable to Title 11 Bankruptcy Code jurisdiction under 28 U.S.C. §§1334 and 1471.

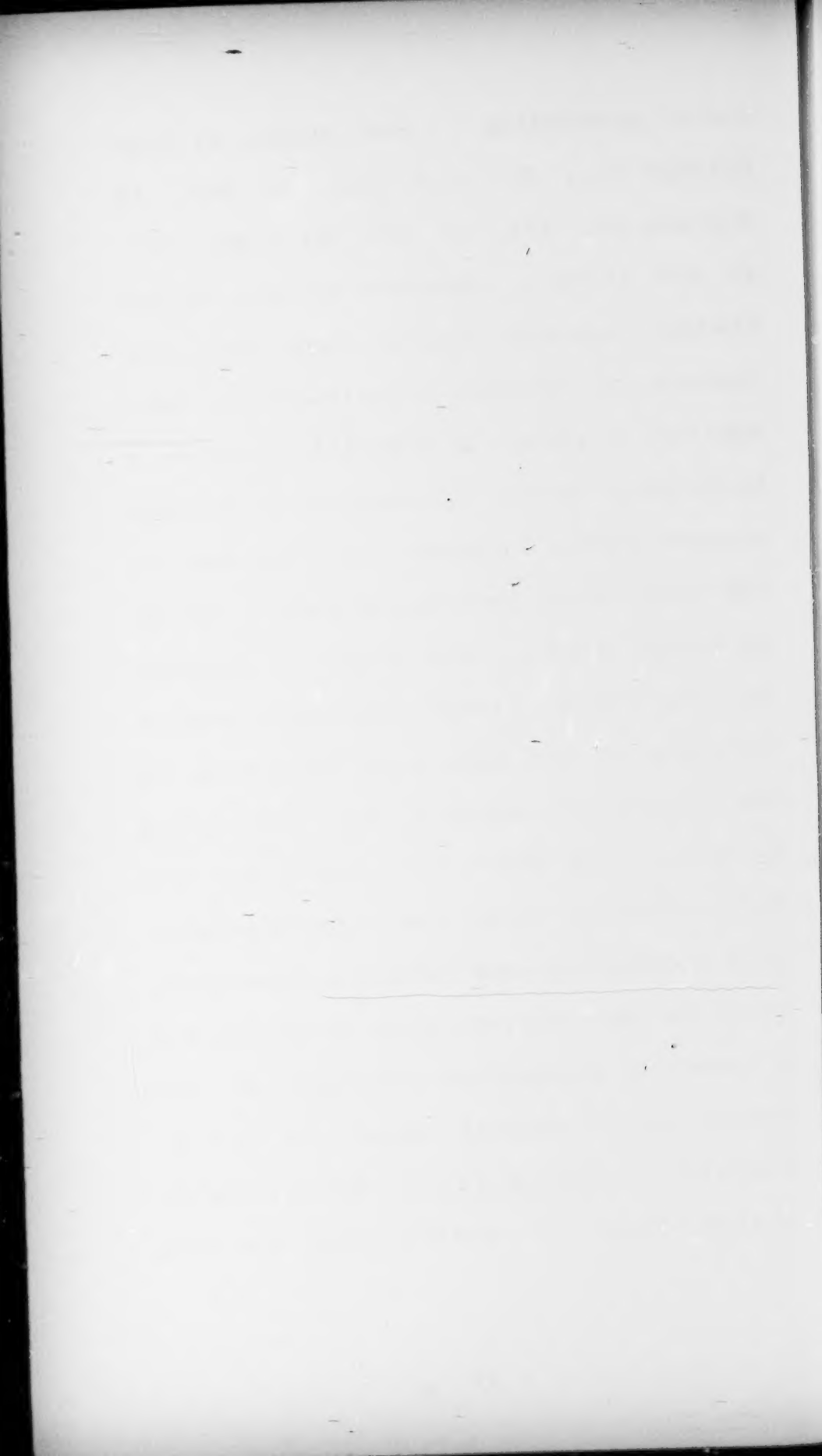


There is no specific congressional grant of jurisdiction for the resolution of controversies "unrelated", but "ancillary", to bankruptcy cases in its grant of jurisdiction to district courts in respect of bankruptcy cases. Except when an order of dismissal in a bankruptcy case retains jurisdiction over certain matters under 11 U.S.C. §349(b), of which there was no retention of jurisdiction in the subject bankruptcy case, the only exception to district court or bankruptcy court jurisdiction after a dismissal of the bankruptcy case is for the purpose of disposing any property deposited with the court registry or otherwise under the control of the court. In such an instance of property deposited with the registry of the court or under the control of the court, there is a "res" which can only be disposed through a





court proceeding. See Murphy v. John Hoffman Co., 211 U.S. 562, at 569, 29 Supreme Ct. 154, at 157, 53 L.Ed. 327, at 330 (1909). Nowhere in any United States Supreme Court case has the concept of "pendent" jurisdiction been applied to permit a district court or a bankruptcy court to resolve a dispute brought before it after the dismissal of the underlying bankruptcy case. In In re Petty, supra., the Court of Appeals for the Fifth Circuit reached a result contrary to the result in this case by the Court of Appeals for the Third Circuit. The Court of Appeals for the Fifth Circuit ruled that the dismissal of a bankruptcy case caused a bankruptcy court to lack jurisdiction to adjudicate a pending proceeding because of the effect of dismissal under 28 U.S.C. §349(b). In re Petty specifically states that to permit the further

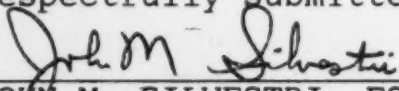


exercise of jurisdiction by a bankruptcy court after the dismissal of an action:

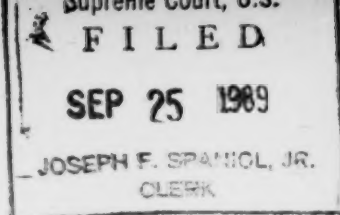
...would be inconsistent with the language and express purpose of [28 U.S.C.] §349(b), by which Congress sought to restore property rights to their pre-action status...

Not only is there a conflict between the Courts of Appeals for the Fifth Circuit and the Third Circuit in respect of the exercise of federal court jurisdiction following the dismissal of a bankruptcy case, but the Third Circuit's notion of injecting "pendent" jurisdiction into Bankruptcy Code matters will tend to defeat the intent of Congress in providing for expeditious resolution of bankruptcy cases by adding judicial work "unrelated" to a bankruptcy case.

Respectfully submitted,

  
JOHN M. SILVESTRI, ESQ.  
Attorney for Petitioner

89-517  
No. \_\_\_\_\_



SUPREME COURT OF THE UNITED STATES  
\_\_\_\_\_

October Term, 1989  
\_\_\_\_\_

ROBERT WOODS,

Petitioner,  
vs.

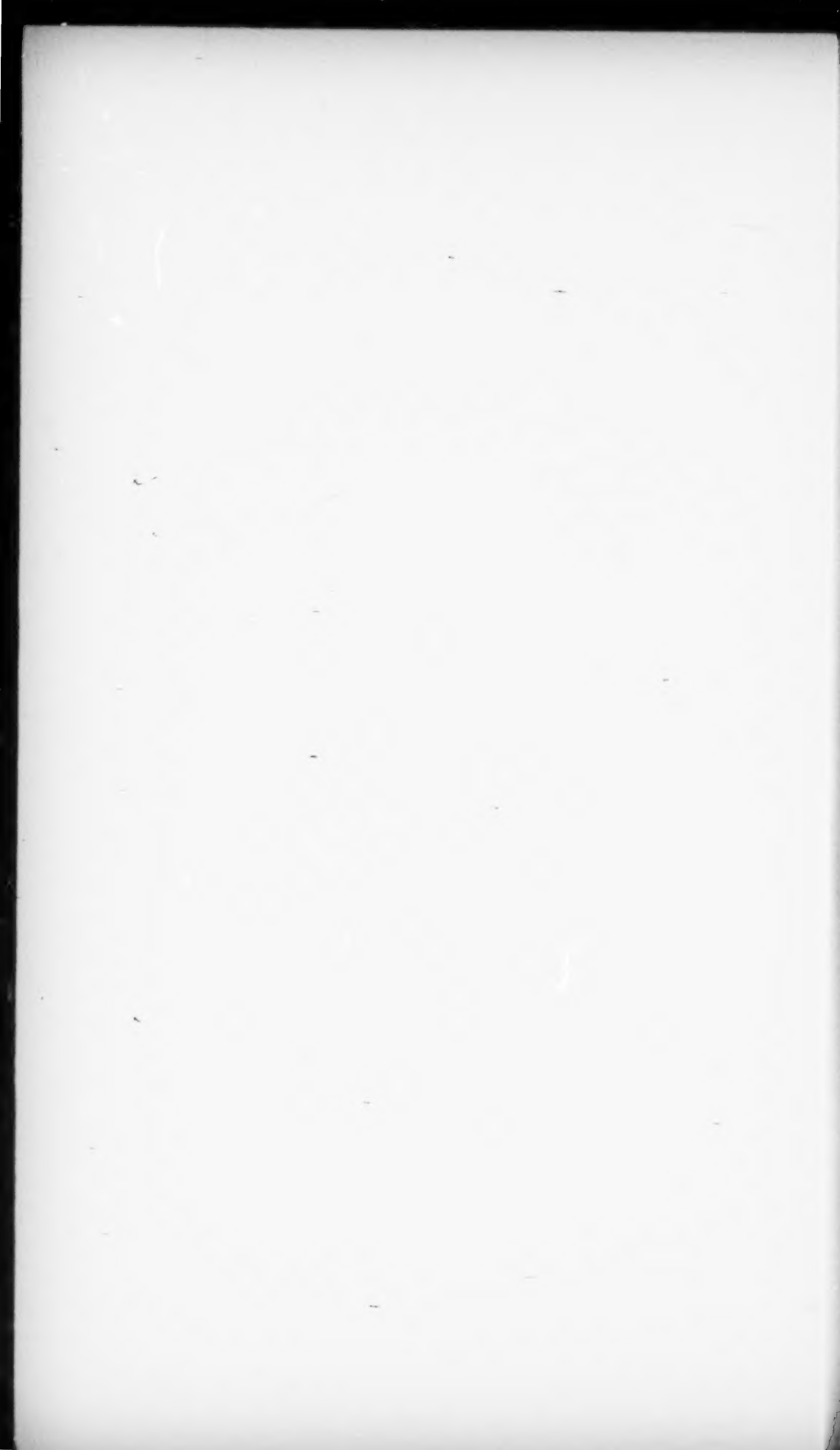
JOSEPH E. HUDAK,

Respondent.  
\_\_\_\_\_

Writ of Certiorari  
to the United States Court  
of Appeals for the Third Circuit  
\_\_\_\_\_

APPENDIX TO  
PETITION FOR WRIT OF CERTIORARI  
VOLUME I  
\_\_\_\_\_

JOHN M. SILVESTRI, ESQ.  
Attorney for Petitioner  
828 Frick Building  
437 Grant Street  
Pittsburgh, PA 15219-6002  
(412) 391-0958  
14108



APPENDIX TO  
PETITION FOR WRIT OF CERTIORARI

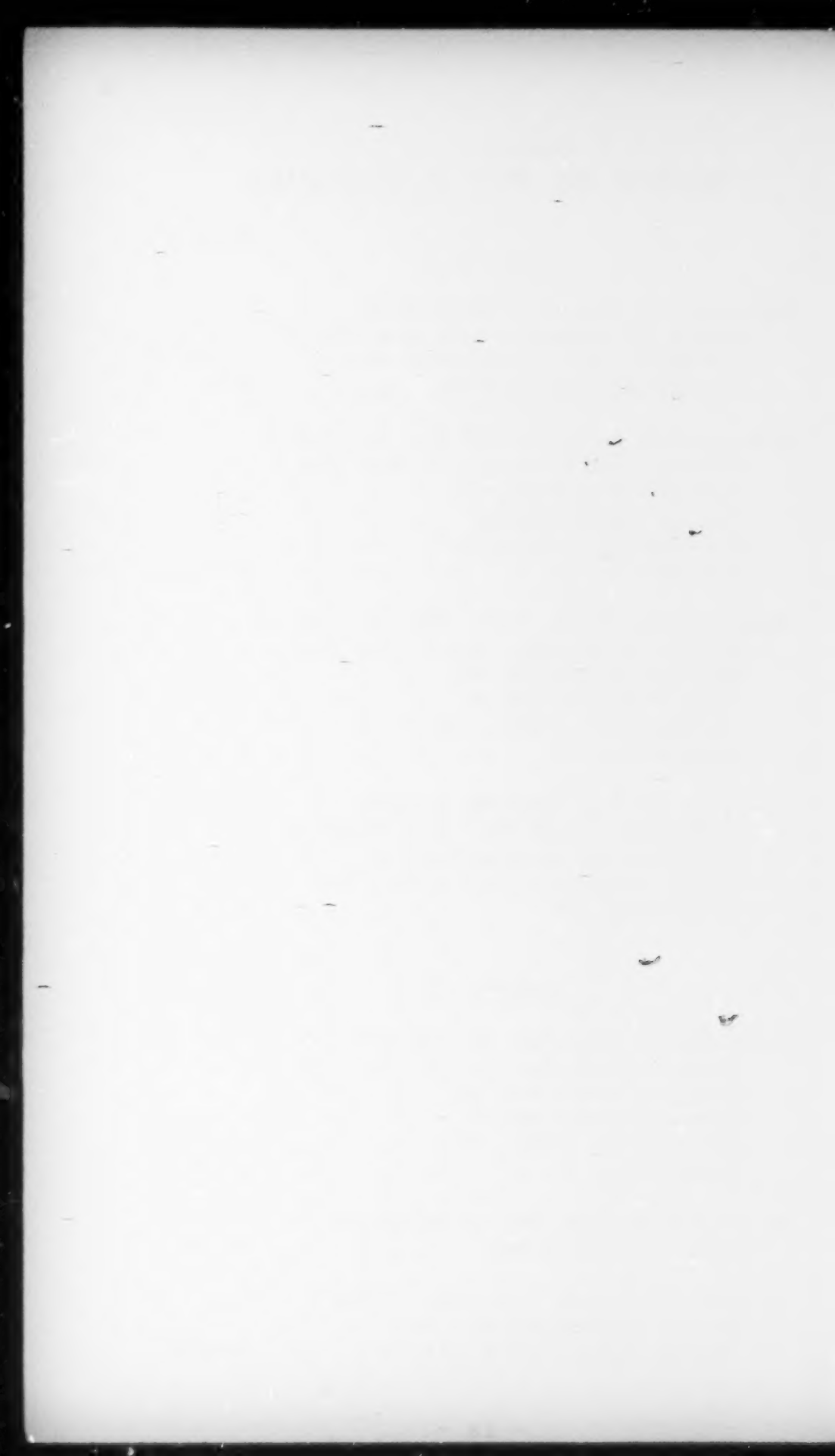
Volume I

Page

Opinion Of The United States Court Of Appeals For The Third Circuit, Per Higginbotham, Stapleton And Rosenn, JJ. . . .	A-1
Memorandum Opinion Of The United States District Court For The Western District Of Pennsylvania Dated October 1, 1987, Per Rosenberg, J. . . . .	A-55
Memorandum Opinion Of The United States District Court For The Western District Of Pennsylvania Dated October 21, 1988, Per Rosenberg, J. . . . .	A-64
Opinion Of The United States District Court For The Western District of Pennsylvania Dated December 22, 1988, Per Rosenberg, J. . . . .	A-79

Volume II

Memorandum Opinion Of The United States District Court For The Western District Of Pennsylvania Dated January 9, 1989, Per Rosenberg, J. . . . .	A-188
Ex Parte Motion For A Temporary Restraining Order . . . . .	A-192
Stipulation for "Consent Order" dated September 30, 1987 (Paragraphs 1-4 & 11-17). . . .	A-203



(Appendix - Continued)	<u>Page</u>
Order Of The District Court Dated October 1, 1987 . . . . .	A-208
Dismissal Of The Bankruptcy Case Dated November 30, 1987 . . . .	A-210
Motion For Contempt Of March 31, 1988 (Paragraphs 1-64). . . . .	A-212
Motion For Contempt Of April 7, 1988. . . . .	A-241
Motion To Dismiss Contempt Proceedings . . . . .	A-247
Order Of The District Court Dated October 21, 1988 Denying Motion To Dismiss Contempt Proceedings . . . . .	A-254
Order Of The District Court Dated December 22, 1988 Adjudicating Contempt And Imposing Additional Conditions On The Parties . . . . .	A-255
Order Of The District Court Dated January 9, 1989 Disposing Of Post-Trial Motions. . . . .	A-269
Judgment Of The Court Of Appeals Dated June 28, 1989 Affirming The District Court With Modifications . . . . .	A-270
Order Of The Court Of Appeals Dated June 30, 1989 Amending The Judgment Of June 28, 1989 . . . . .	A-273

NOTE: The misspellings of the district court opinions are not corrected herein.





**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT**

---

**NOS. 89-3030, 89-3043, 89-3069, 89-3070**

---

**JOSEPH E. HUDAK**

**vs.**

**ROBERT WOODS,  
MICHAEL S. GEISLER  
RICHARD O'BRIAN**

**Robert Woods,  
Appellant in Nos. 89-  
3030 and 89-3070**

---

**JOSEPH E. HUDAK**

**vs.**

**ROBERT WOODS,  
MICHAEL S. GEISLER  
RICHARD O'BRIAN**

**Michael S. Geisler,  
Appellant in No. 89-  
3043**

---

**JOSEPH E. HUDAK**

**A - 1**



vs.

ROBERT WOODS,  
MICHAEL S. GEISLER  
RICHARD O'BRIAN

Richard O'Brian,  
Appellant in No. 89-  
3069

-----  
On Appeal From the United States District  
Court for the Western District of  
Pennsylvania (Pittsburgh) (D.C. Civil  
Action No. 87-1999)

-----  
Argued April 11, 1989

BEFORE: HIGGINBOTHAM, STAPLETON,  
and ROSENN,

Circuit Judges

(Opinion filed Jun 28, 1989)

-----  
Joseph E. Hudak (Argued)  
3113 Beechwood Boulevard  
Pittsburgh, PA 15217

Pro Se, Appellee

Charles F. Scarlata (Argued)  
Scarlata & Plastino  
1550 Koppers Building  
Pittsburgh, PA 15219

Attorney for Appellant



Woods

Norma Chase (Argued)  
721 Investment Building  
239 Fourth Avenue  
Pittsburgh, PA 15222

Attorney for Appellant  
Geisler

Michael S. Geisler  
417 Allegheny Building  
Pittsburgh, PA 15219

Attorney for Appellant  
O'Brian

-----  
OPINION OF THE COURT -  
\_\_\_\_\_

STAPLETON, Circuit Judge:

This is an appeal from an order dated December 22, 1988 articulating the conditions the appellants must satisfy in order to purge themselves of civil contempt and providing for the appointment of a special master to aid the court in ensuring compliance with a prior order. The December 22 order was

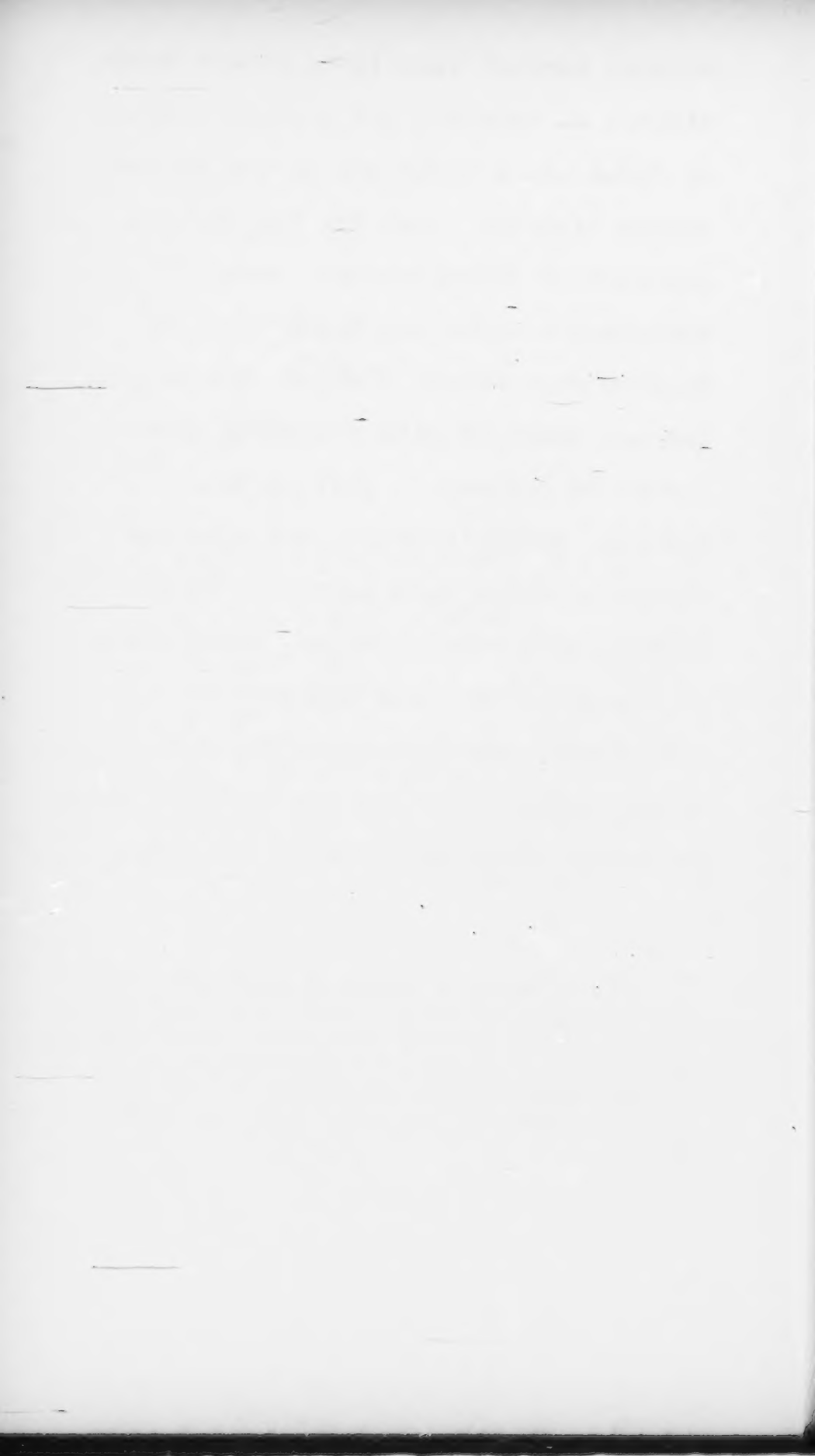


entered against appellants Robert Woods, Michael S. Geisler, and Richard O'Brian<sup>1</sup> by Judge Louis Rosenberg of the United States District Court for the Western District of Pennsylvania. Judge Rosenberg's order was based upon his finding that Woods, O'Brian, and Geisler had not complied with a consent order issued on October 1, 1987 to which Geisler, Woods, O'Brian, and appellee Joseph E. Hudak were parties. We will affirm, with clarification, those parts of the order that are designed to effectuate compliance with the consent order, while directing the district judge to delete those portions of the order

---

<sup>1</sup>. O'Brian's name is spelled alternately "O'Brien" and "O'Brian" on papers filed in the district court and in this court, as well as throughout the transcripts of the hearings in the district court. We will use the latter spelling.





that are not appropriately tailored to obtaining compliance.

I.

This appeal represents one aspect of a bitter feud waged between Robert Woods and his cohorts on the one hand and Woods' son-in-law, Joseph Hudak, on the other. The feud has consumed the parties, overpowering reason, decency, and civility. We will not here recount in full this sorry history, instead confining ourselves for the most part to the facts arising after October 1, 1987 (the date of the consent order) after sketching the background of the case. Our narrative will reflect the findings of Judge Rosenberg.

Hudak's association with Woods dates from the time Hudak was engaged to marry Woods' daughter, Sharon Lavelle, a



registered nurse and the mother, by a prior marriage, of two young boys. Hudak began practicing law in 1986, and one of his first clients was his future father-in-law. Hudak represented Woods in various civil and criminal matters and, at Woods' urging, was later drawn into helping Woods in his mortgage broker business. The relationship was a cordial one; Hudak testified that Woods viewed him as "the son he never had," Woods apparently made various business loans to Hudak, as well as providing money to help Sharon and her two boys.

During this period--in 1986 and 1987--Hudak also built up a thriving law practice based on noncomplex divorce and bankruptcy cases. Through advertising, over one thousand clients were obtained in a few months. Although Hudak was the attorney of record on most of these



cases, he did not actually do the legal work on them. Instead, in late 1986, he hired attorney Michael Geisler to handle the divorce and bankruptcy cases. Geisler also handled the accounts payable for the firm.

In July 1987, Woods encountered various personal problems that, according to Hudak, shattered his emotional equanimity. One day, in the offices that Woods and Hudak shared, a late Federal Express delivery sent Woods into a rage, and Hudak responded by calling in security guards to restrain Woods and by locking Woods out of the offices.

On July 15, 1987, Woods fired the opening salvo in an attempt to get even with Hudak: a petition in the Bankruptcy Court for the Western District of Pennsylvania seeking the involuntary



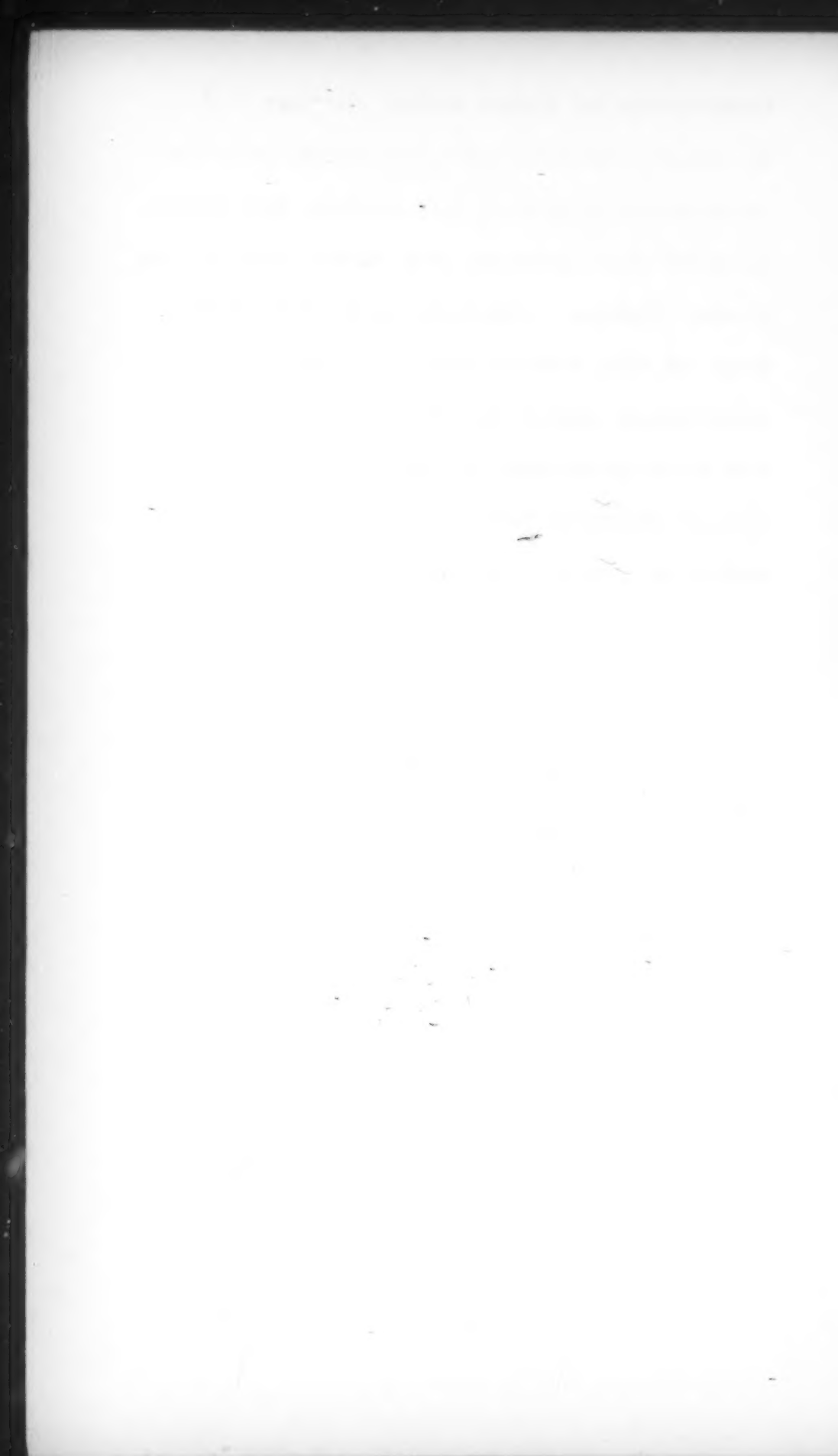
bankruptcy of Hudak under chapter 7.<sup>2</sup>  
At first, Geisler advised Hudak on this  
bankruptcy action. But within two weeks,  
Geisler quit working for Hudak and joined  
Woods' forces. Geisler took with him  
most of the simple divorce and  
bankruptcy cases while leaving some of  
the more problematic ones in a file  
behind Hudak's desk without notifying  
Hudak of their whereabouts. Geisler then

---

2. The nominal petitioner was  
Geraldine Woods, but the address listed  
in the petition was the business office  
of her husband. Further, Geraldine Woods  
did not sign the actual petition filed  
with the court. Moreover, Geraldine  
Woods testified at trial that her husband  
conducted all of his business affairs  
under hr name, that she often did not  
read the papers she signed, and that her  
husband "handled everything."

The petition states that Woods'  
claims amounted to "\$79,000 for amounts  
due under various loans from Petitioner  
to Debtor."





began representing Woods in actions against Hudak and his wife.<sup>3</sup>

Over the next few months, Woods feverishly executed a campaign of vilification against Hudak and his family. Woods warned his daughter that Hudak was a danger to her sons, mailing her books about Ted Bundy and other serial killers. He threatened to file and eventually did file suits against his daughter for such debts as parking tickets owed on the car he had given her. He made obscene names in public places, in particular in the state courts.

Woods also obtained, apparently from Geisler, lists of the many cases that Geisler was handling but on which Hudak was the attorney of record. Woods then hired Richard O'Brian to call many

---

<sup>3</sup>. Geisler is also representing O'Brian on this appeal.



of the clients to suggest that they complain to the Disciplinary Board about Hudak's handling of the cases. Woods also called Hudak's clients to inform them that Hudak's law firm was a fraud, that their money had been stolen, and that Hudak would soon be in jail.

Further testimony was offered by a process server about how Woods had beat him up when he attempted to serve Woods, and then offered through a third party to pay the process server \$500 a day if he would not testify as to the event.

Hudak responded with claims and counterclaims of his own. Most relevant here was the motion for a temporary restraining order he brought pro se against Woods, Geisler, and O'Brian on September 16, 1987. The motion was filed in the bankruptcy court as a response to Geraldine Woods' petition for invol-



untary bankruptcy. After hearing Hudak's position ex parte, Judge Rosenberg conducted a three-day hearing with Woods, Geisler, and O'Brian present and represented by counsel.

By his motion, Hudak sought to restrain Woods, Geisler, and O'Brian from continuing their interference with his business and with his personal life. In particular, Hudak sought to prevent Geisler from taking client files and lists of clients, from divulging privileged material pertaining to the cases that Hudak had been handling, and from revealing information about Hudak's defense to the involuntary bankruptcy action, deemed by Hudak to be privileged by virtue of Geisler's legal assistance of Hudak. Hudak also sought to halt Woods' contact with Hudak's clients.



At the close of the hearings, the parties drew up a proposed consent order that first provided that the motion for a temporary restraining order would be withdrawn for the bankruptcy court and "converted" to a motion for a preliminary injunction "with continuing jurisdiction before Judge Rosenberg in accordance with the law of injunction and the facts of the case." The order next set out how Geisler and Hudak would dispose of the remaining bankruptcy and divorce cases, including payment by Hudak to Geisler of filing fees and decree fees that were to be used "only for the purpose for which paid to him" App. at 72. Geisler was also to report to Hudak monthly to inform him of the progress being made on the outstanding cases. The order prohibited Geisler "and agents, servants, employees or associates thereof" from "further





contact with clients of Hudak for the purpose of discussing any alleged irregularities in the handling of cases or [from] otherwise interfer[ing] with the business of Hudak "except as necessary to dispose of the cases being handled by Geisler himself. App. at 74.

The order further prohibited contact between Woods and Hudak and O'Brian and Hudak, and provided that Woods and his associates and agents would be prohibited from contacting Hudak's clients. Contact between Woods and his daughter and grandchildren, however, was not prohibited, and the parties were allowed to pursue "any legal remedy for which [they would be] entitled under law." App. at 74. The proposed order was approved by Geisler, O'Brian, and Woods, and reviewed by Judge Rosenberg, who then incorporated it into an

THE UNIVERSITY OF CHICAGO PRESS

CHICAGO, ILLINOIS, U.S.A.

1963

PRINTED IN GREAT BRITAIN

BY THE UNIVERSITY OF CHICAGO PRESS

CHICAGO, ILLINOIS, U.S.A.

1963

PRINTED IN GREAT BRITAIN

BY THE UNIVERSITY OF CHICAGO PRESS

CHICAGO, ILLINOIS, U.S.A.

1963

PRINTED IN GREAT BRITAIN

BY THE UNIVERSITY OF CHICAGO PRESS

CHICAGO, ILLINOIS, U.S.A.

1963

PRINTED IN GREAT BRITAIN

BY THE UNIVERSITY OF CHICAGO PRESS

CHICAGO, ILLINOIS, U.S.A.

1963

PRINTED IN GREAT BRITAIN

BY THE UNIVERSITY OF CHICAGO PRESS

CHICAGO, ILLINOIS, U.S.A.

1963

PRINTED IN GREAT BRITAIN

BY THE UNIVERSITY OF CHICAGO PRESS

CHICAGO, ILLINOIS, U.S.A.

1963

"injunctive order" filed by him on October 1, 1987. On November 30, Woods and Hudak agreed to a stipulated withdrawal of the bankruptcy petition.

On March 31 and April 8, 1988, Hudak brought two motions for contempt against Geisler, Woods, and O'Brian, citing violations of the terms of the consent order. Judge Rosenberg held five days of hearings on Hudak's charges. At the conclusion of the hearings, he held Woods, O'Brian, and Geisler in contempt.

The district judge found that, by several of his actions, Woods had violated the consent order by "contacting" Hudak and "contacting," through his agents, Hudak's clients for the purpose of interfering with Hudak's business. In particular, the judge resolved credibility conflicts between the testimony of Hudak and his witnesses



and the testimony of Woods' witnesses<sup>4</sup> to find that Woods approached Hudak in an elevator in the Lawyers Building in Pittsburgh and proceeded to grab Hudak's nose and repeatedly call him a "rapist." The judge also gave credence to the testimony of a receptionist in the building containing Hudak's offices, Maryann Lampl, that persons identifying themselves as clients of Hudak would call, complaining about the status of their cases and that at least one of them stated that Woods had told them to call Hudak and had given them the number of an office near Hudak's.<sup>5</sup> Lampl further testified that a person identifying

---

4. Woods did not testify at the hearings, although he was present and was repeatedly chastised by Judge Rosenberg for his disruptive behavior during the proceedings.

5. No hearsay objection was made to any of this testimony.

January 18th 1878 to American and

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

to the American and to the American

himself as Woods called, attempting to contact Hudak and referring to Hudak as the "rat." App. at 732.

The judge also resolved competing accounts of an incident outside a Common Pleas courtroom in favor of Hudak. Judge Rosenberg found that Woods approached Hudak and called him a "fucking pig face," that Hudak made a comment about Woods' mistress, that Woods then spat in Hudak's face, and that Hudak then struck Woods.

Regarding the contact of Hudak's clients through agents of Woods, Anthony Guida, an attorney at the Pittsburgh law firm of Buchanan Ingersoll, gave uncontradicted testimony that in January 1988 a person identifying himself as Richard O'Brian and as a disgruntled client of Hudak's called him several times, complained about the work Hudak had done





on his divorce, and suggested that Guida contact Hudak at a certain address. The judge also found credible the testimony of Hudak's wife, Sharon Lavelle, that she received forty calls from Hudak's clients after October 1987 on the Hudaks' unlisted number.

In addition, the judge found that Geisler had violated certain provisions of the consent order. Geisler himself conceded that instead of using all of the \$10,317 give him by Hudak, pursuant to the consent order, for filing fees and decree fees, he had used some of it for his various office expenses. The judge also found that Geisler had failed to report to Hudak in accordance with the consent order. Finally, the judge found that it was not possible on the record before him to determine the status of all the cases acquired by Hudak and Geisler



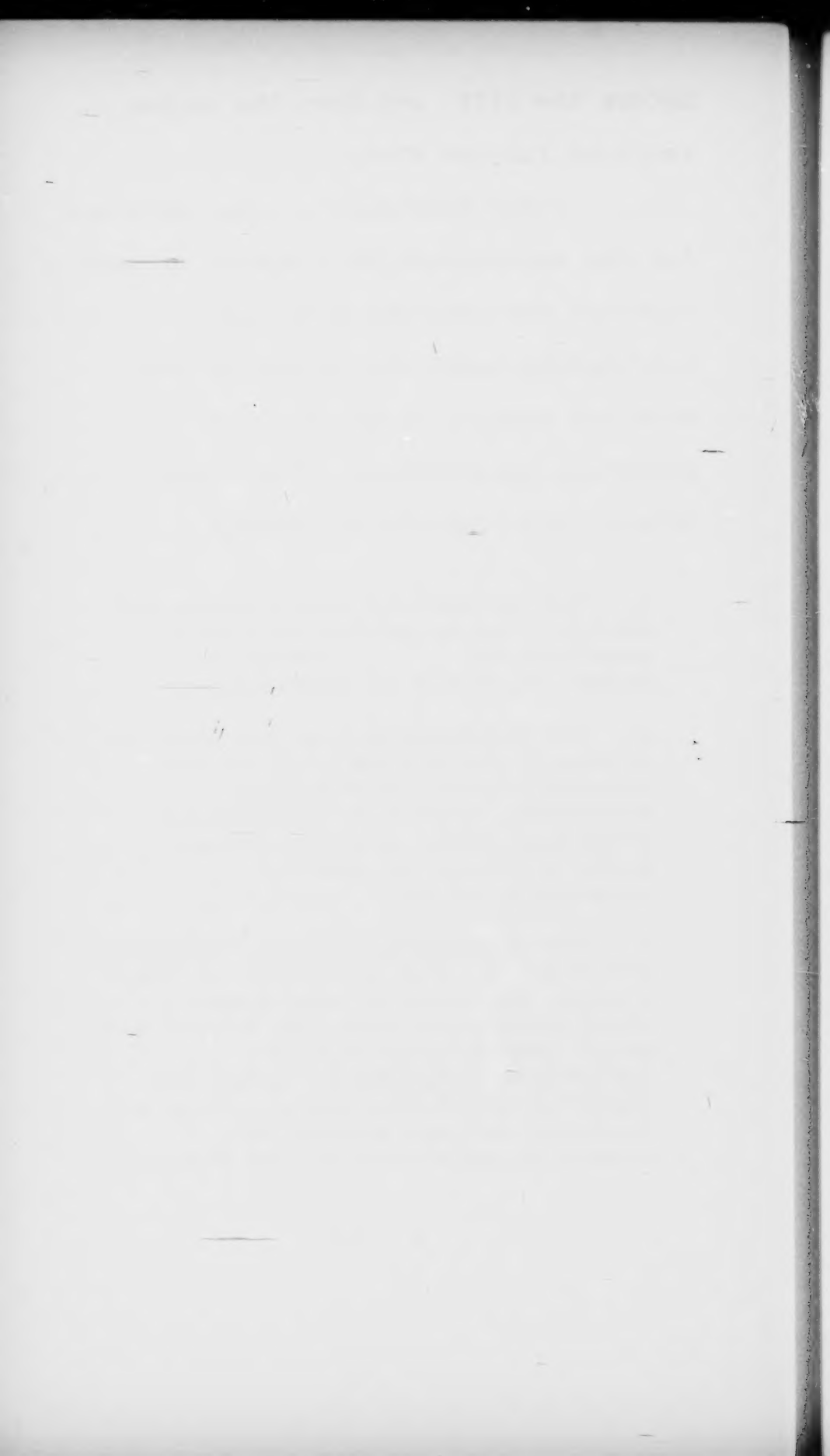
before the rift, and that the matter required further study.

Judge Rosenberg's order provided for the appointment of a master to help expedite the resolution of the outstanding cases and to aid in the district court's supervision of its purgation requirements. The order further provided the following:

1. The defendants shall cease and desist from molesting in every possible way . . . Joseph E. Hudak, directly or indirectly.

2. The defendants are required to withhold the transmittal of any communications, statements, mouthings, gossip or references regarding Hudak to any and all persons except by special permission of this court.

3. The defendants, Woods, Geisler and O'Brien, and any other of their agents, servants or employees, shall cooperate with the Master and shall immediately separate themselves completely, under the supervision of the Master, from all business matters except as otherwise permitted by the Master.



\* \* \*

6. Geisler shall and is required to act as counsel on all Hudak bankruptcy and divorce cases turned over to him pursuant to the injunctive order, and those which he personally procur[ed] or which may be assigned to him by the Master, excepting only those cases for which he may be relieved by this court.

7. Woods shall file, within 10 days of the date of this Order, a complete listing of all of his assets which he holds either personally or jointly with any other person or corporation, showing for each such asset the nature and extent of his holding, including, but not limited to, all holdings under veil or pseudonym names (sic).

8. Within 15 days of this order Woods shall deposit with the Clerk of Court the sum of \$10,000, in cash or certified funds. This fund shall be used for the purposes of providing costs and expenses for those cases requiring filing costs and other litigation expenses as well as for the payment of the costs and fees of any substitute counsel appointed by the court or the Master on any of the Hudak bankruptcy or divorce cases and for the payment of the Master's fees and expenses. Woods shall provide necessary funds to maintain or replenish this account to the



level of \$10,000 at all times by supplying such funds to the Clerk of Court [] in cash or certified form within 24 hours of any notice of any court or Master, approved expenditure from the said fund, but this shall not relieve Woods of any obligation to independently assess the fund and keep it replenished to the level of \$10[, ]000.

9. Woods shall provide all the funds necessary except for those which Geisler shall be directed to provide for furthering all the divorce and bankruptcy cases to their completion. Such amounts shall be presented for payment of such expenses through the Clerk of Court and shall be paid only upon approval of this court after recommendation of the Master.

10. Geisler shall also provide immediate and specified funds as required by the Master in his discretion as such funds may be necessary for the completion of the bankruptcy and divorce matters.

App. at 10-13

The order also provided that Hudak was to make a detailed accounting of all "the cases and monies turned over to Geisler" pursuant to the October 1, 1987 order. App. at 11. Geisler was to





make monthly reports to the master regarding the status of those cases. Finally, the order provided for the parties to submit complaints about failures to comply with the Court's order to the Master, who would then conduct an evidentiary hearing if "necessary" for the preparation of a written report that was to be submitted to the district judge.

## II.

We first address Appellants' challenge to the district court's jurisdiction over Hudak's motions charging appellants with contempt. In essence, appellants argue that, since Hudak's motion for a temporary restraining order could be brought in



federal court solely on account of the pending bankruptcy proceeding, once that proceeding ended the district court's jurisdiction ended as well.

To set this discussion in the proper analytical context, we begin by examining the district court's jurisdiction to hear Hudak's September 16, 1987 motion for a temporary restraining order.

Because Hudak's motion did not allege diversity of citizenship or the violation of any federal law, the jurisdiction of the district court was governed by 28 U.S.C. Section 1334.<sup>6</sup> Since Hudak's motion was not "under"

---

<sup>6</sup>. None of the parties argues that the district court's withdrawal of the reference to the bankruptcy court of Hudak's motion was an abuse of discretion under 28 U.S.C. Section 157 (d). Compare In re Lion Group, 48 B.R. 329, 336-38 (S.D.N.Y. 1985).



title 11, see Section 1334 (a), the applicable subsection is Section 1334 (b), which provides that "the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11." A recent pronouncement from this court makes it clear that the district court had "related to" jurisdiction over Hudak's motion:

The usual articulation of the test for determining whether a civil proceeding is related to bankruptcy is whether the outcome of that proceeding could conceivably have any effect on the estate being administered in bankruptcy. Thus, the proceeding need not necessarily be against the debtor or against the debtor's property. An action is related to bankruptcy if the outcome could alter the debtor's rights, liabilities, options, or freedom of action (either positively or negatively) and which in any way impacts upon the handling and administration of the bankrupt estate.



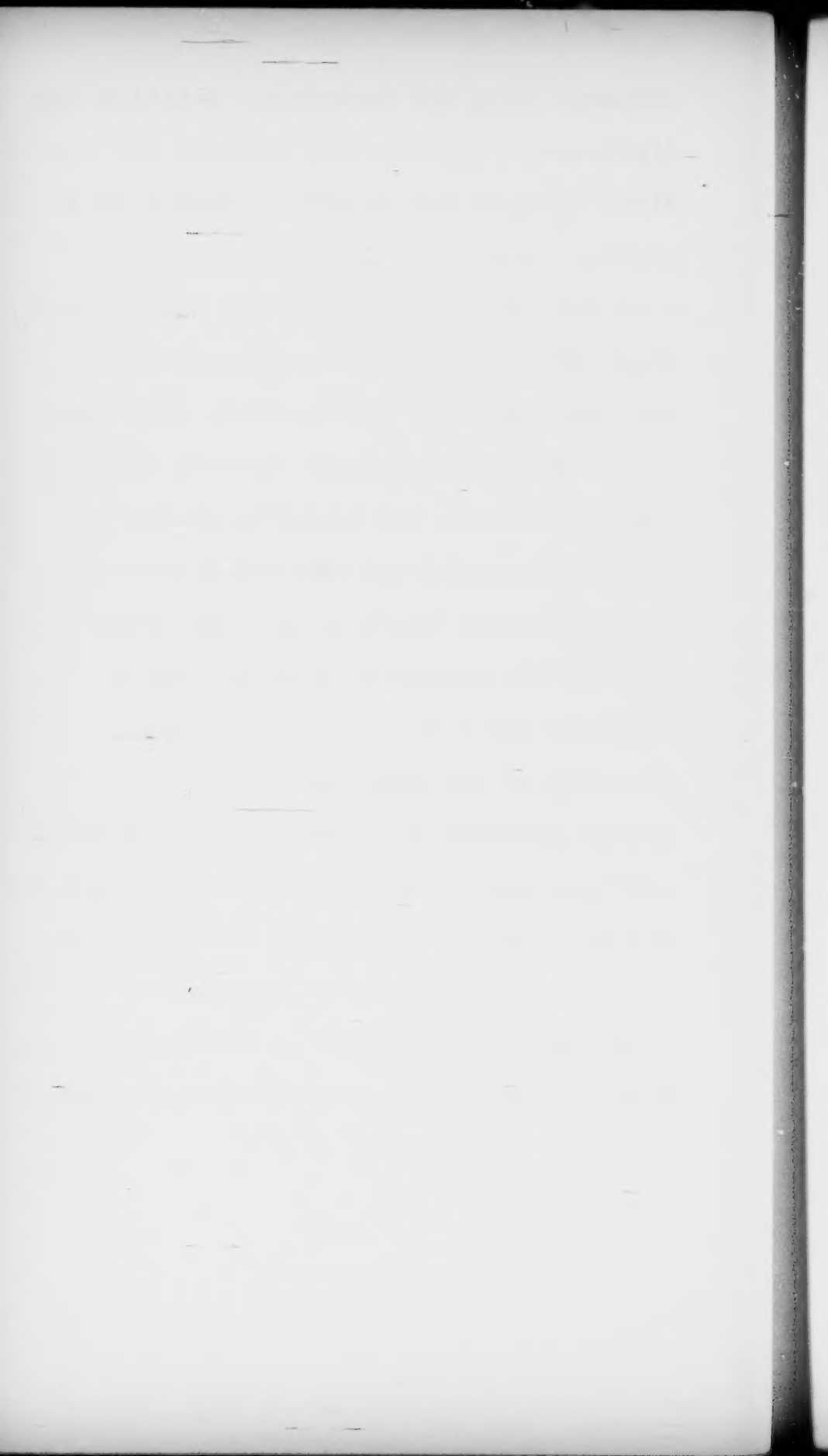
Pacor, Inc. v. Higgins, 743 F.2d 984, 994 (3d Cir. 1984) (citations omitted, emphasis in original). We have no doubt that Hudak's motion qualifies under the test announced in Pacor. The motion alleged interference by Woods, Geisler, and O'Brian with Hudak's business and personal life. The defendants' scheme, as alleged by Hudak, was to ruin Hudak financially. Ruin of Hudak--the debtor in possession--would mean an alteration of Hudak's liabilities, options, and freedom of action, and it would directly affect the bankrupt estate. The district court therefore had the power to enter its order of September 30, 1987.

We consider, then whether the district court's jurisdiction to enter its order entailed the jurisdiction to enforce that order by citing parties for

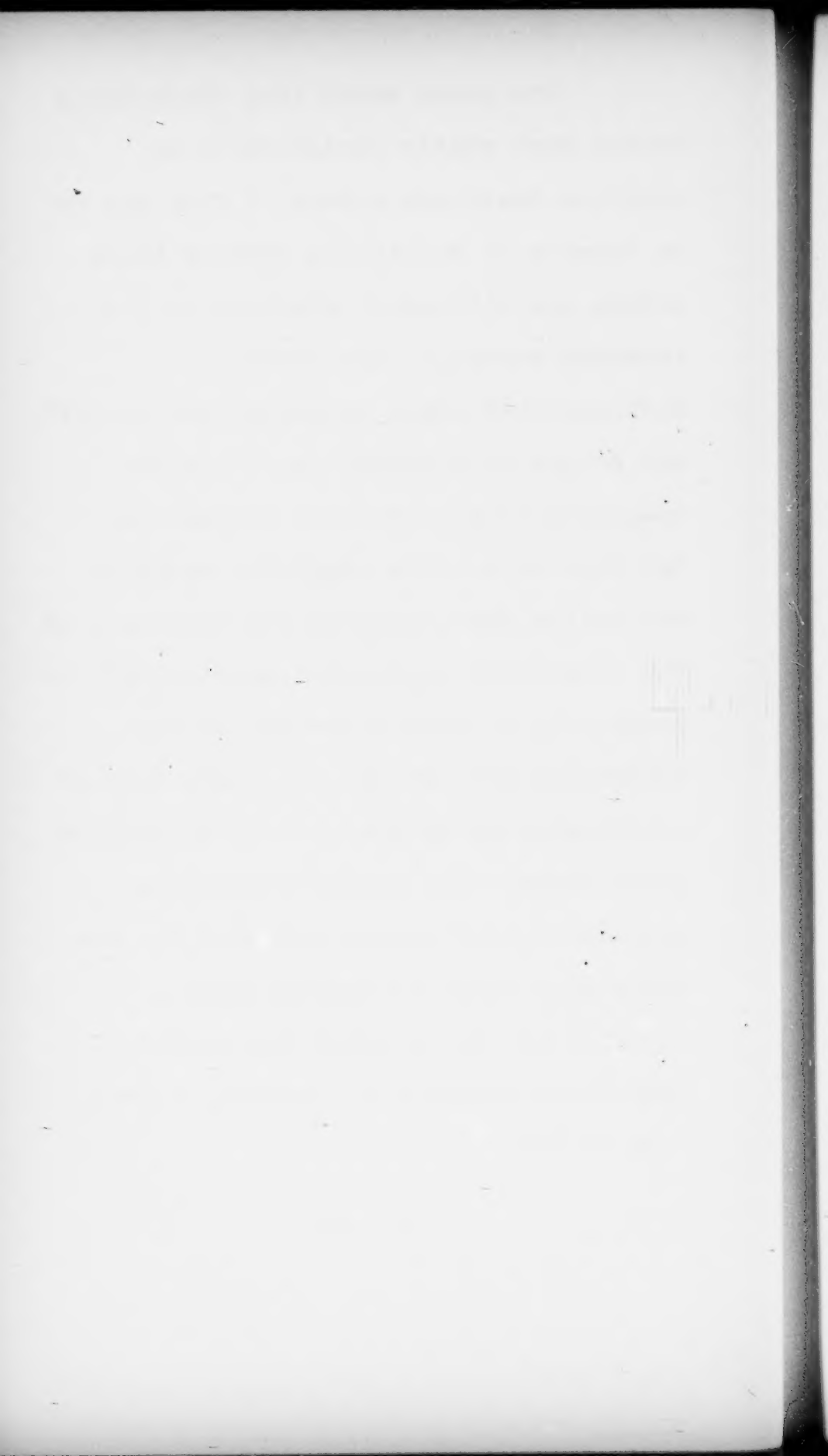




contempt once the bankruptcy petition was dismissed. The Court of Appeals for the Ninth Circuit was recently faced with a similar issue. In In re Franklin, 802 F.2d 324 (9th Cir. 1986), the debtors had repeatedly filed bankruptcy petitions that were each in turn quickly dismissed by the bankruptcy court. During the interim between the debtor's second filing of a petition and its dismissal, the bankruptcy court entered an order lifting the automatic stay so that a creditor could foreclose on certain property of the debtors. After the second petition was dismissed and a third petition was filed, the creditor sought a ruling from the bankruptcy court in the nature of a declaratory judgment interpreting the effect of the prior order on the creditor's foreclosure sale.



The court noted that "bankruptcy courts must retain jurisdiction to construe their own orders if they are to be capable of monitoring whether those orders are ultimately executed in the intended manner." The court distinguished cases in which "new relief" was sought by a party, requiring the reopening of a bankruptcy proceeding: "In this case, (the creditor) seeks no new relief that requires the reopening of the underlying bankruptcy proceeding. It seeks only an interpretation of the bankruptcy proceeding. It seeks only an interpretation of the bankruptcy court's prior order. The second bankruptcy proceeding need not be reopened for the bankruptcy court to declare (the creditor's) rights after the second bankruptcy petition's dismissal." 802 F.2d at 327.

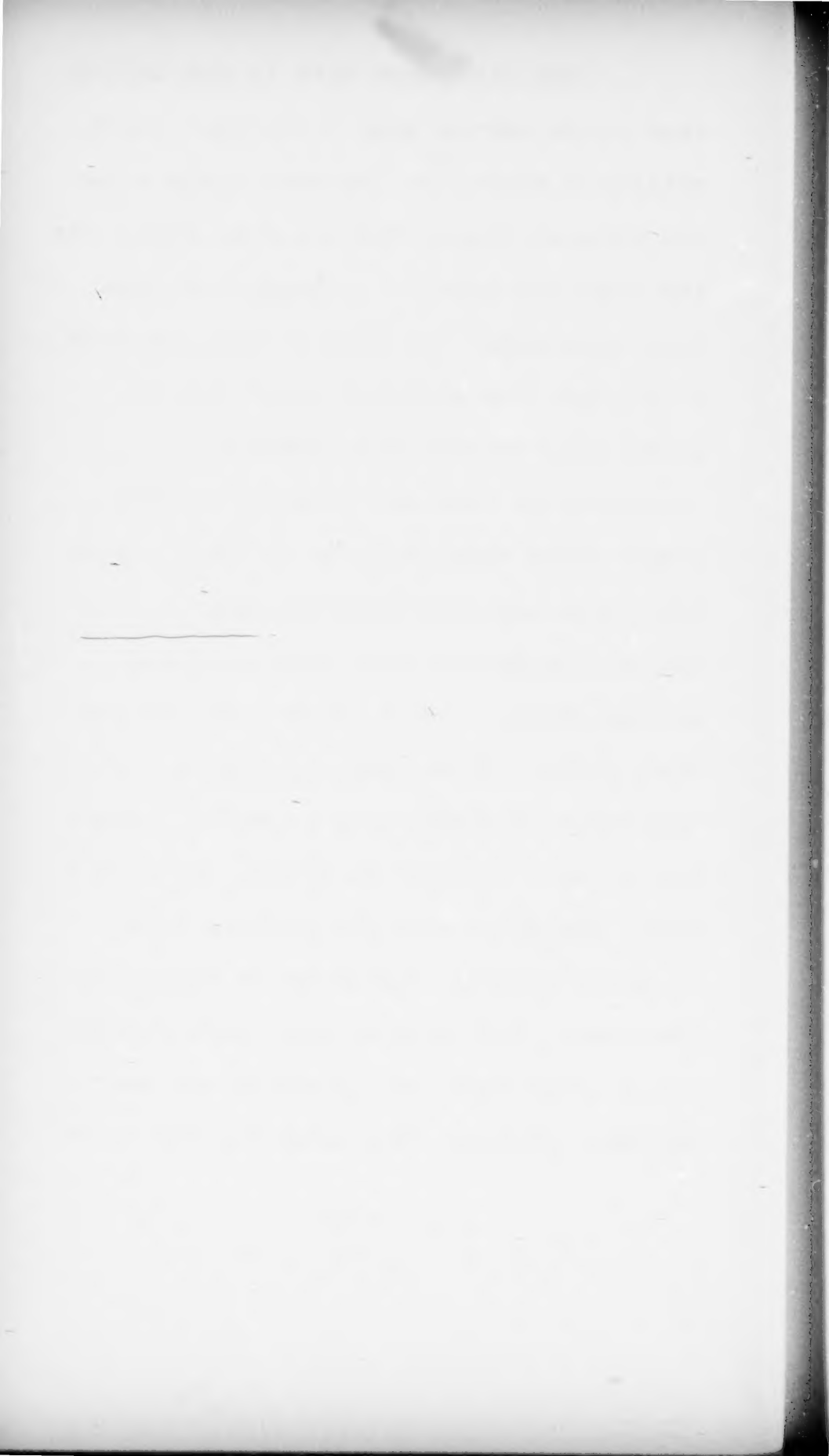


Although this appeal involves the enforcement of an order through contempt, the principle underlying Franklin controls here. Once a court has issued an order, it would be wasteful and detrimental to that court's authority for the court to be powerless to enforce its prior order. Such impotence would mean that the court would be forced to dismiss all pending "related to" and "arising in" claims when a bankruptcy petition is dismissed, lest it waste its time deliberating over further, unenforceable decisions. If such were the rule, the district court would in effect possess only a kind of "conditional" jurisdiction under Section 1344; a jurisdiction conditioned on the nondismissal of the bankruptcy proceeding. We find nothing in the Bankruptcy Code that suggest such a result.



The situation here is not unlike that which occurs when a district court retains a state-law, pendent claim after the federal claim--the original basis for the district court's jurisdiction--has been dismissed. In such a case, we have ruled that the district court has the power and discretion to retain jurisdiction over the pending pendent claim--even when no order on that state-law claim has been entered. See Nationwide Mutual Fire Ins. v. T & D Cottage Auto, 705 F.2d 685, 687-88 (3d Cir. 1983). This rule, of course, applies with greater force where a court has already entered an order. In such a case, the court and the parties have invested greater resources in resolving the issue, and voiding the court's order would often mean relitigating the same matter. Further, the need for the court





to protect its integrity through exercise of its contempt powers is greater when it must safeguard the effect of its decree than when no ruling has been issued.

### III.

We next consider whether the district court's findings that Geisler, O'Brian, and Woods violated the consent order were clearly erroneous. See United States v. Charmer Industries, Inc., 722 F.2d 1073, 1078-79 (2d Cir. 1983). We note at the outset that a district court need not find that a party's violation of an order was willful in order to find that party in contempt. See E.E.O.C. v. Local 638 . . . Local 28 of Sheet Metal Worker, 753 F.2d 1172, 1178 (2d Cir. 1985).



Regarding Geisler, we have already noted that he has conceded that he used the funds given him by Hudak for purposes other than filing fees and decree fees. Geisler contends, however, that the order "did not expressly limit him to using those funds for court costs." Br. of Geisler at 8. We find this position to be meritless. The order, by stating that Geisler was to use the funds received from Hudak only "for the purpose for which paid to him," can only mean that Geisler was to allocate amounts given to him in accord with the reason underlying the calculation of those amounts. Thus, for example, amounts given for filing fees should have been spent only on filing fees.

The judge's finding that Geisler did not report to Hudak in accord with the consent order is also well supported



by the record. Geisler's only argument here, an argument made during the hearing but abandoned on appeal, is that he had trouble finding Hudak. Such an assertion is highly suspect given Geisler's association with Woods and Woods' knowledge of Hudak's unlisted phone number and of the location of his home, as well as Geisler's legal representation of O'Brian and O'Brian's knowledge of Hudak's whereabouts. The judge was thus entitled to disbelieve Geisler's account of his attempts to find Hudak.

As for Woods, the judge's findings again rested upon credibility determinations, the bases for which he articulated thoroughly. On the basis of the testimony in the record, the judge could reasonably find that Woods had contacted Hudak several times, in violation of Paragraph 13 of the consent



order, and the judge could draw an inference from the testimony that Woods himself or through his agents contacted clients of Hudak to interfere in Hudak's business, in violation of Paragraph 11. Similarly, the district judge's conclusion that O'Brian interfered with Hudak's business by contacting Hudak's creditors was a reasonable one.

#### IV.

Finally, we turn to the scope of the purgation order. We note that civil contempt is remedial in nature, a means of obtaining compliance with a court order that a district court finds to have been violated. See United States v. Powers, 629 F.2d 619, 627 (9th Cir. 1980). A district court has broad discretion in fashioning a purgation





order; indeed, the court can require the contemnor to take action not required in the original order. See In re Arthur Treacher's Franchisee Litigation, 689 F.2d 1150, 1159 (3d Cir. 1982). That discretion is not unlimited, however. The requirements of the purgation order must be designed to "grant the relief that is necessary to effect compliance" with the underlying, disobeyed order. McComb v. Jacksonville Paper Co., 336 U.S. 187, 193-94 (1949). Further, the purgation order, like the underlying order, is unenforceable if it is couched in vague terms. See Vertex Distributing v. Falcon Foam Plastics, Inc., 689 F.2d 885, 889 (9th Cir. 1982).

Applying these precepts to this case, we find several provisions to be broader than is appropriate to obtain compliance with the consent order.

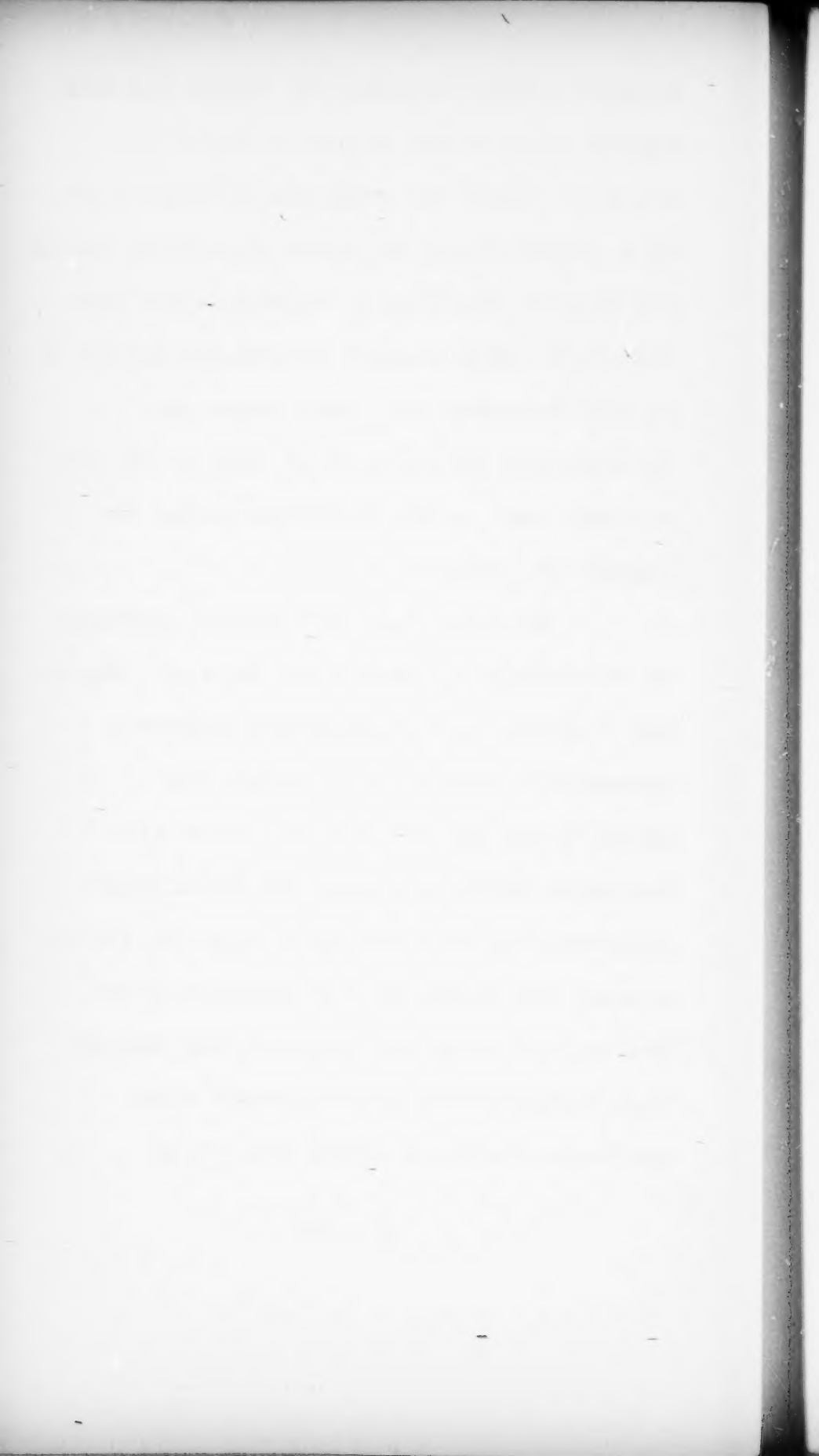


Paragraph 2's proscription against making any statements about Hudak to anyone without prior approval of the court would include true statements and untrue ones, harmful statements and innocuous ones. The consent order was not intended to insulate Hudak from all criticism, or even to give him special protection against libel and slander by subjecting the appellants to prior restraints. Thus, the purgation order's prohibition against all mention of Hudak is not tailored to the effectuation of the consent order; it would give Hudak rights in addition to those embodied in the consent order. See Collins on behalf of Collins v. Barry, 841 F.2d 1297, 1300 (6th Cir. 1988) (purpose of civil contempt is not to create additional rights). The specific speech-related harms contemplated and addressed in the



consent order--contact by Woods and his agents with Hudak and with Hudak's clients--would be adequately dealt with by a reiteration of those prohibitions in the purgation order. Accordingly, the district judge should delete Paragraph 2 of the December 22, 1988 order and incorporate paragraphs 11 and 13 of the October 1987 order into the order he issues on remand.

We also find the latter portion of Paragraph 3, requiring Geisler, Woods, and O'Brian to "immediately separate themselves completely, under the supervision of the Master, from all business matters except as otherwise permitted by the Master," App. at 11, to exceed the scope of the consent order. The record does not support the notion that Hudak's travails stemmed from business dealings among the three



defendants. The campaign by Woods and O'Brian against Hudak was motivated by personal, not business, reasons, even though that campaign did affect Hudak's business. Nothing in the hearings held before or after the consent order suggest that business agreements among the defendants were the vehicle by which the campaign was carried out. Thus, this provision would not prevent a continuation of the objectionable activities by Woods, Geisler, and O'Brian, while it would prohibit legitimate dealings among the three. The provision therefore exceeds the scope of the consent order and we will direct the district court to delete it from the purgation order.<sup>7</sup> The

---

<sup>7</sup>. Woods and Geisler object to Paragraphs 2,3, and 7 on the ground that they infringe on the appellants' first-amendment rights. Because we find the inclusion of those paragraphs in the purgation order to constitute an abuse of discretion, we decline to reach the





district court should retain that portion of Paragraph 3 requiring Woods, Geisler, and O'Brian to cooperate with the Master, since such cooperation is necessary for the effectuation of the original consent order and since appellants do not appear to object to that provision.

We note further that Paragraph 7, requiring Woods to file a complete listing of all of his assets, would not further compliance with the consent order. There is no indication in the record that Woods' financial status was a cause either of the pre-consent-order problems or of his subsequent failure to comply with that order. Nor is financial disclosure warranted by the provision in Paragraph 8 that Woods contribute to a fund. If, in the future, Woods objects

---

constitutional issue.



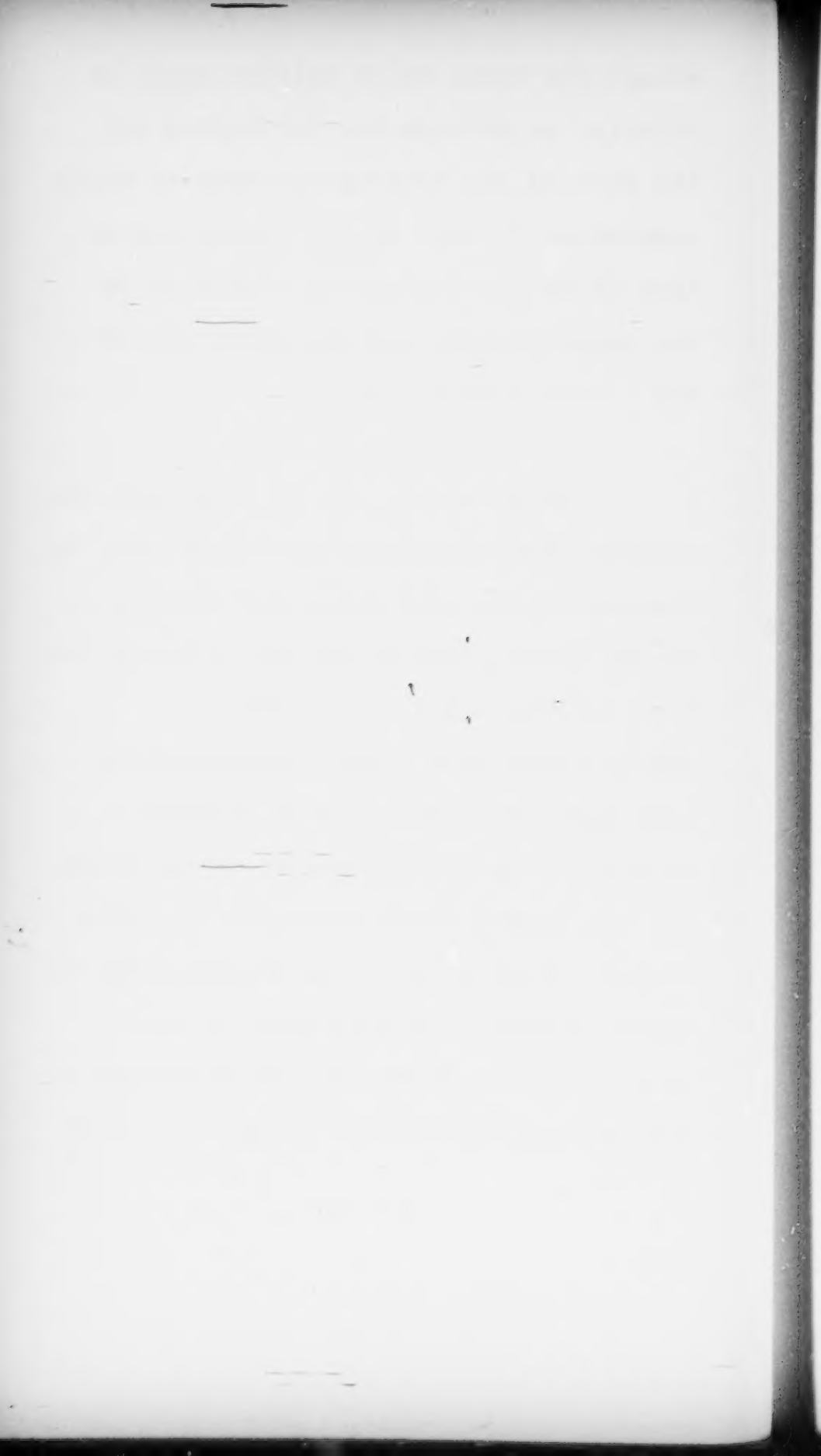
to contribution on the ground that he is unable to pay, then the court may require that Woods prove that inability through disclosure of his financial condition. See O'Leary v. Moyer's Landfill, Inc., 536 F. Supp. 218, 219-20 (E.D. Pa. 1982) (Pollak, J.). For now, Woods' financial condition appears to be irrelevant to his conduct in violation of the consent order and disclosure at this time will not further compliance. Paragraph 7 should therefore be deleted.

Woods objects to Paragraph 8, which requires him to deposit \$10,000 with the court-appointed master to cover litigation expenses, presumably related to the bankruptcy and divorce cases, and to Paragraph 9, which requires to the bankruptcy and divorce cases, and to Paragraph 9, which requires Woods to "provide all of the funds necessary



except for those which Geisler shall be directed to provide for furthering all the divorce and bankruptcy cases to their completion." App. at 13. Woods argues that these provisions are unrelated to the consent order and therefore exceed the court's authority.

We disagree. It is true that the consent order required Geisler quickly to dispose of the bankruptcy and divorce cases, using funds given him by Hudak for that purpose. But the record demonstrates that Woods' intermeddling with Hudak's clients had an adverse effect on the disposition of those cases. For one thing, Woods continual flouting of the contempt order has sapped Hudak of money, energy, and time that he would otherwise have expended upon disposing of the backlog of cases in cooperation with



Geisler, It is also clear that Woods' actions have impeded cooperation between Geisler and Hudak. Thus it is appropriate for the district court to require Woods to help further the provisions of the contempt order by putting the \$10,000 in an account with the special master, thereby aiding the restoration of a status quo that would have existed but for Woods' contempt. It is also appropriate for the district court to direct that the fund be used to pay the special master in his effort to achieve compliance with the consent order. Having conducted himself in such a manner as to make the appointment of the master necessary, Woods should not now complain that he is being asked to help fund that master.

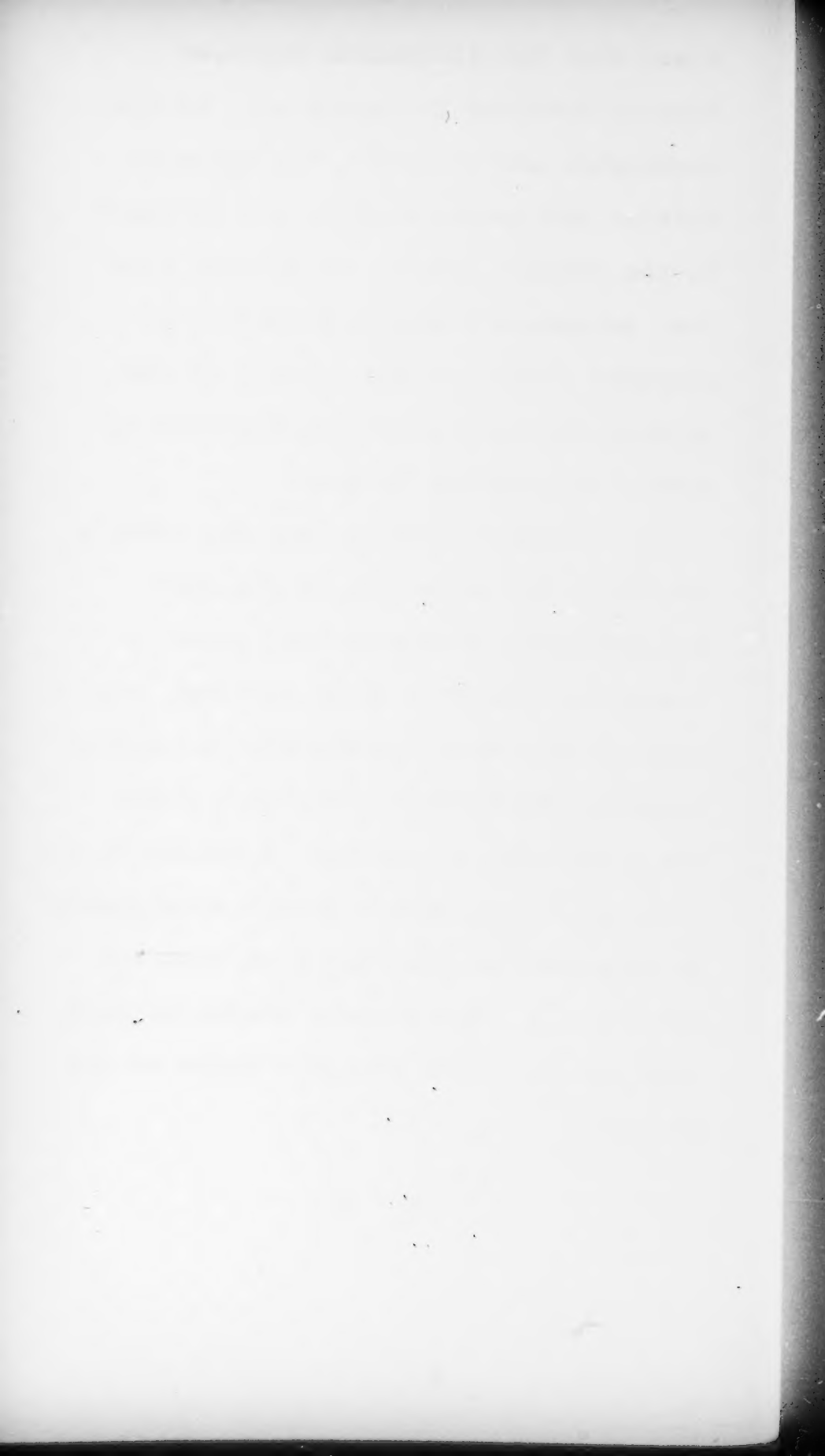
We do note, however, that paragraph 8 should be amended to make it





clear that the litigation expenses therein referred to relate only to the bankruptcy and divorce cases taken by Geisler and handed over to him pursuant to the consent order. We further find that paragraph 8 should provide that whatever funds, if any, remain in the account when the cases are disposed of should be returned to Woods.

Geisler objects that the order's provision for reporting on the past actions taken on the divorce cases is "inappropriate in a civil contempt case." Geisler advocates current-status reports instead. We think the district judge was within his discretion in requiring a history of each case. Such a requirement is necessary to sort out with accuracy and certainty the current status of each case and to ensure the good faith of the parties.



Geisler does not object to paragraphs 5, 6, and 10 and we therefore will allow those provisions to stand. The appellants do not object to the appointment of the master, not to Paragraph 1 or paragraphs 11 through 17, and we therefore allow those paragraphs to stand.

#### IV.

We will affirm the district court's contempt order of December 22, 1988. On remand, the district court should modify that order in accord with the appendix to this opinion. Such order shall be subject to modifications by the district court in the event of changed circumstances. The mandate will issue forthwith.



---

TO THE CLERK:

Please file the foregoing not for  
publication opinion.

/s/ Walter K. Stapleton,  
Circuit Judge

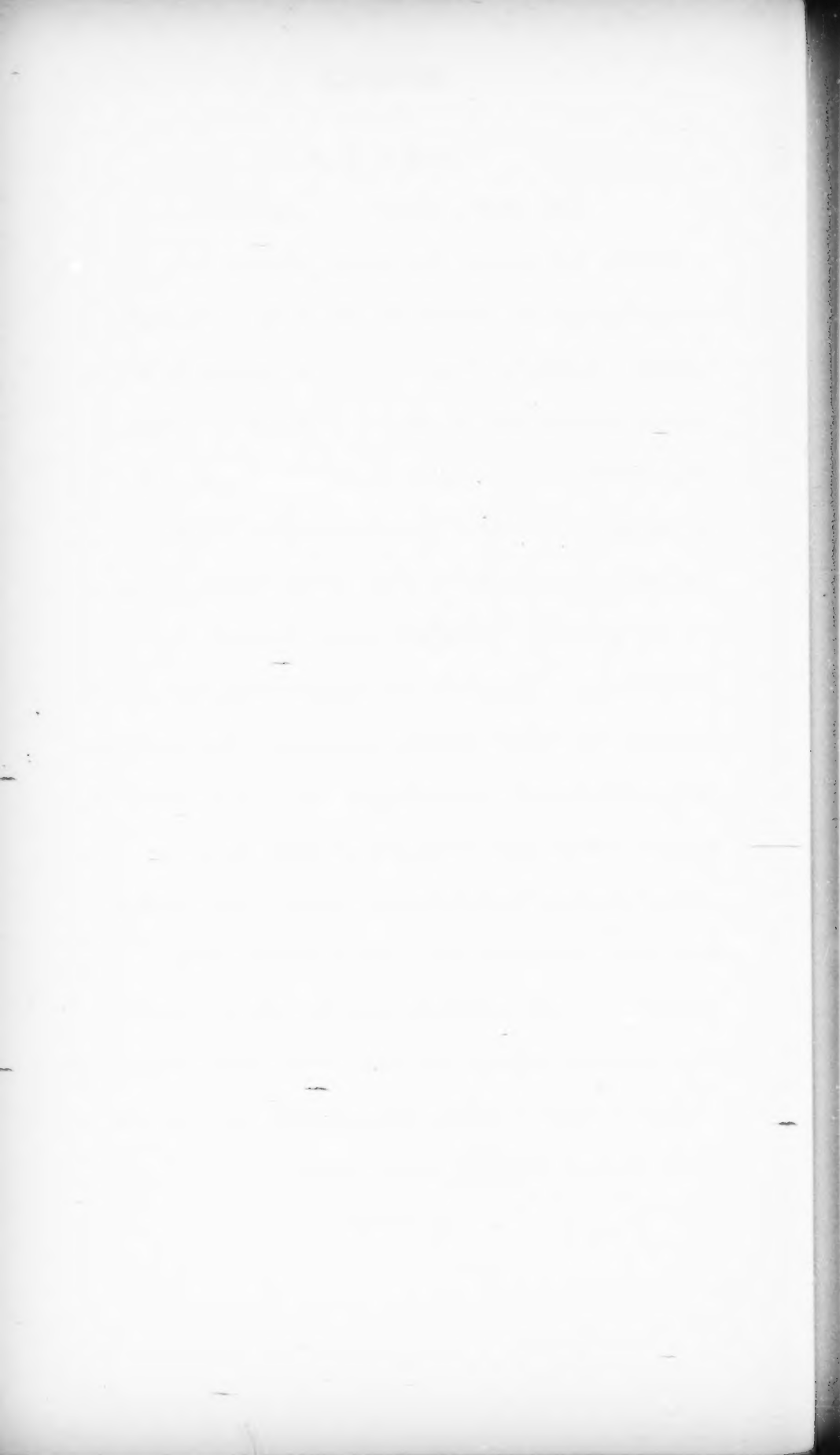


## APPENDIX

### ORDER

AND NOW, this       day of  
 , 1989, in order to facilitate the  
compliance of Michael Geisler, Joseph  
Hudak, Robert Woods, and Richard O'Brian  
(also known as Richard O'Brien) ("the  
parties") with this court's order of  
October 30, 1987 (hereinafter "the  
injunctive order") and with this order,  
it is hereby ORDERED that Robert L.  
Federline, Esquire be appointed as a  
Master by this court pursuant to Federal  
Rule of Civil Procedure 53. The Master  
shall have the authority and duty of  
supervising compliance with this order  
and the October 30, 1987 order and  
reporting on compliance to this court.  
The Master shall be sworn by the court to  
perform the duties delegated to him by  
this order and by the court.





The following is further ORDERED with notice that any party who fails to comply with the following may be held in contempt of this court and subject to appropriate sanctions, including fines and imprisonment:

1. The defendants--Woods, Geisler, and O'Brian--shall cease and desist from molesting, directly or indirectly, Joseph E. Hudak.

2. The defendants--Woods, Geisler, and O'Brian--shall cooperate with the Master.

3. Hudak shall within 5 days provide to the Master a complete accounting of all cases and monies turned over to Geisler pursuant to the injunctive order, and Geisler shall present to the Master, within 10 days of the date of this Order, a complete accounting of all divorce and bankruptcy



files which he removed from the Hudak offices and those cases turned over to him for completion pursuant to the injunctive order (collectively hereafter referred to as the "Hudak divorce and bankruptcy cases"), specifying for each case:

- a. The name of the client;
- b. The mater being handled on behalf of the client;
- c. The date that the case was accepted from the client;
- d. The complete itemization of all steps already taken on behalf of such client;
- e. A complete specification of all work remaining in such case to prosecute it to completion;
- f. A complete accounting of any and all monies received from any and all sources by Geisler;



g. A complete accounting by Geisler of all monies received by him for bankruptcy proceedings; and

h. A complete accounting of any and all monies disbursed by him.

4. Geisler shall thereafter provide monthly reports to the Master of the circumstances and financial status of each Hudak bankruptcy and divorce case until its final conclusion or until such time when he is relieved of such a case by this court or the Master.

5. Geisler shall act as counsel on all Hudak bankruptcy and divorce cases turned over to him pursuant to the injunctive order, and those which he personally procured or which may be assigned to him by the Master, excepting only those cases of which he may be relieved by this court.



6. Within 15 days of the date of this order Woods shall deposit with the Clerk of Court the sum of \$10,000, in cash or certified funds. The fund shall be used for costs and expenses for those of the Hudak bankruptcy and divorce cases requiring filing costs and other litigation expenses as well as for the payment of the costs and fees of any substitute counsel appointed by the court or the Master of any of the Hudak bankruptcy or divorce cases and for the payment of the Master's fees and expenses. Woods shall provide necessary funds to maintain or replenish this account at the level of \$10,000 at all times by supplying such funds to the Clerk of Court in cash or certified form within 24 hours of notice of this court or of the Master. Any funds remaining





when these costs and expenses have been paid shall be returned to Woods.

7. Woods shall provide all the funds necessary for the Hudak bankruptcy and divorce cases except for those which Geisler shall be directed to provide for furthering all the cases to their completion. Such amounts shall be presented for payment of such expenses to the Clerk of Court and shall be paid only upon approval of this court after recommendation of the Master.

8. The parties are reminded of the contents of paragraph 11 and 13 of the injunctive order:

11. Woods and O'Brian, and agents, servants, employees or associates thereof, shall have no further contact whatsoever with the clients of Hudak for the purpose of those clients' legal matters and shall in no way



engage in the practice of law or otherwise interfere with the business of Hudak.

13. Woods, and agents, servants, employees or associates thereof, shall have no further contact with Hudak, except to discuss legal matters which Hudak has handled for Woods or the wife of Woods.

Failure to comply with these provisions may result in sanctions against the noncomplying party.

9. If, at any time, any party reasonably believes that there has been a failure to comply with, or contempt of, this Order or of the injunctive order, such party shall submit, in writing and in detail, his reasons in support of such allegations to the Master. All such communications with the Master by the parties shall be in writing.



10. After consideration of any such communications, the Master shall file a report that may include;

a. Recommending that any party be held in contempt, and the reasons therefore;

b. Specifying recommendations for appropriate relief as a result of any failure to comply with this order or any actions taken in contempt of this order;

c. Recommending the removal of counsel or substitution of counsel on any of the bankruptcy or divorce matters under the supervision of the Master.

11. For the purpose of making such recommendation, the Master may, at his discretion or upon request of a party, hold any evidentiary hearing necessary for the preparation of any of his reports in this matter. The Master may require the production before him of



evidence upon all matters embrace in this order of reference, including, but not limited to the production of all books, papers, vouchers, documents and writings applicable thereof. The Master may rule upon the admissibility of any evidence before him and shall have the authority to put witnesses under oath and may examine them and shall have the power to summon or subpoena the parties to the action and examine them after putting them under oath. When a party so requests, the Master shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in the Federal Rules of Evidence for a court sitting without a jury.

12. After filing the report required by Paragraph 10, the Master shall file subsequent reports for the





purpose of updating the court on the status of these matters, which reports shall be filed not more than 60 days following the immediately preceding report.

13. The Master shall file such other reports as the court shall hereafter direct.

14. The rate of compensation for the Master appointed hereunder shall be \$95.00 per hour. Such compensation shall be payable only upon approval of this court after application of the Master duly filed, such application not being filed more frequently than once every 45 days. This application shall include:

a. A chronological listing of time and services performed by the Master;

b. The total amount of compensation requested;



c. The date and amount of previous compensation paid to the Master, if any.

15. As a part of each report the Master shall also show an accounting of all trust funds held by the Clerk of Court throughout such period, itemizing all expenditures and receipts.

16. In the event the Master is required to expend any sums for the purpose of compelling attendance of witnesses at hearings, for payment of court reporter expenses or otherwise directly related to his duties as a Master hereunder, he is authorized to expend such funds directly from the trust fund created herein without first seeking approval of this court.

---

United States District Judge



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDAK,  
Plaintiff,

)  
)  
)  
)

v. CIVIL ACTION NO. 87-1999

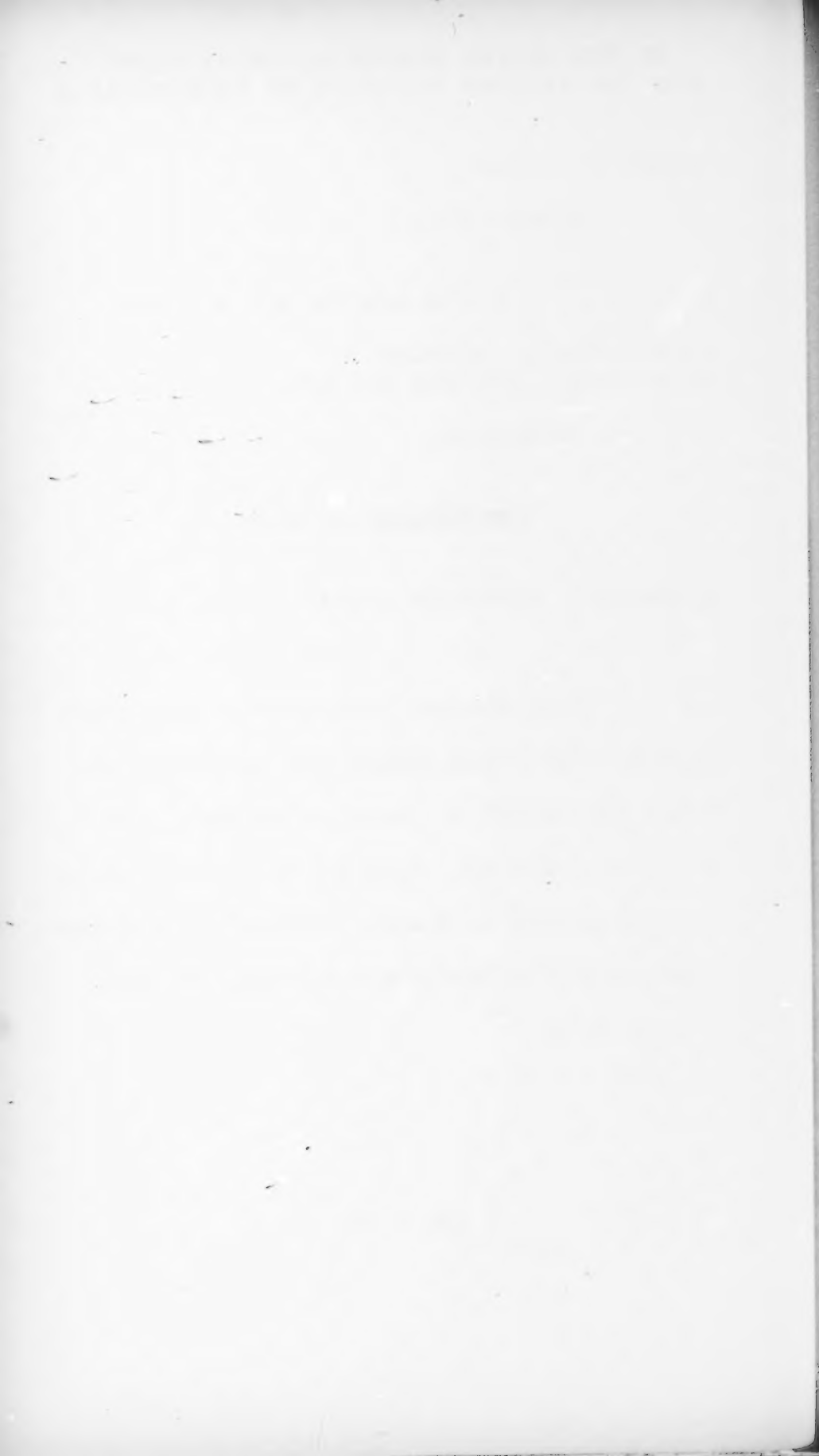
ROBERT WOODS, MICHAEL S.  
GEISLER and RICHARD OBRIAN,  
Defendant.

)  
)  
)  
)

MEMORANDUM OPINION

ROSENBERG, DISTRICT JUDGE

This matter came before the court on a Motion for a Temporary Restraining Order by Joseph E. Hudak ("Hudak"), an attorney, pro se, against various persons including Robert Woods ("Woods"), Richard O'Brien ("O'Brien") and Michael Geisler ("Geisler").



In his action, Hudak's evidence is that he was a sole practitioner who had begun a law practice a year ago; that He has procured approximately 1,000 clients mainly through advertising; that he borrowed \$50,000 from Woods; that he made arrangements with certain lawyers to handle the cases which consist mostly of bankruptcy and divorce matters; that he charged the fees, set up the office, retained an office staff and relied almost entirely for the actual functioning of the work upon the lawyers whom he retained on a specific payment basis; that he agreed to pay Geisler seven percent (7%) of the fees procured in his cases; that the cases came to him from various parts of the country; that he entered into certain dealings with Woods; that he gave Woods office space and they shared a common file room; that





he relied upon Woods for many legal contacts or that Woods assumed legal contacts under the circumstances of various cases; that he became the fiance' to Woods' daughter; that Woods objected strenuously and physically to such a relationship; that Woods maligned him and that fisticuffs occurred because of minor legal process servings in related matters; that thereafter Geisler left his employ and made connections with Woods and took with him without Hudak's permission a certain number of case files; that Woods took certain records from Hudak's office and that Woods used these records to make telephone calls and to employ Richard O'Brien to make telephone calls to various clients of Hudak inquiring about their satisfaction of dissatisfaction with Hudak and where dissatisfied advising grievance committee



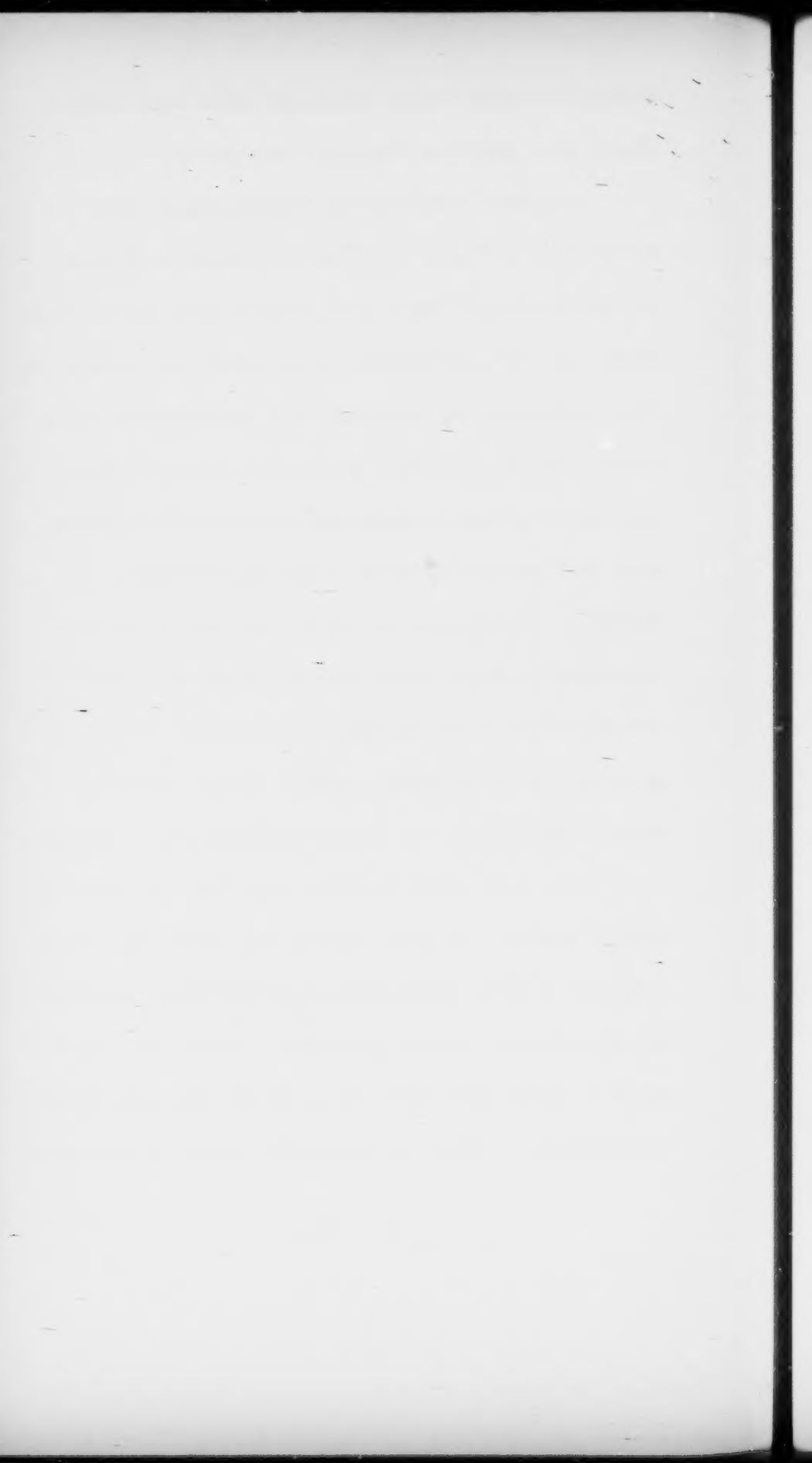
processing against Hudak; that as a result, Hudak's law firm began to disintegrate and the staff affected; that his practice is being and has practically been demolished to such an extent and the he is in need of injunctive relief for the purpose of protecting his interest and for the purpose of protecting clients' interests.

After a hearing of considerable period of time and before the respondents finished presenting evidence in addition of their cross-examination of the plaintiff's witnesses, the parties agreed and stipulated upon a settlement of the matter and presented to the court a stipulation and the agreement for approval. From all that appears, it would seem to be in the interest of all parties concerned, but in particular of



the public, which must depend upon lawyers and their integrity for legal needs that this stipulation be approved and enforced and that the temporary restraining order as stipulated by the parties be converted to a preliminary injunction of this court with continuing jurisdiction until disposed of finally.

This action actually rises after an involuntary bankruptcy was filed against Hudak by Woods. The granting of the agreed upon request of both parties will in a large measure eliminate the need of a bankruptcy judge to concern himself with the rights of lawyers and most concernedly, clients of the lawyers and the public as a whole, by the granting of a preliminary injunction, and the intention of this court to retain jurisdiction, it will be in authority to



you were" (TR of 9-21-87 Hearing, DC #37, p. 14).

Woods referred to a constable who came to serve his wife with a summons in the automobile, accused him of attempted rape of his wife and said, "I come over and grabbed him, called the police, called the police and I beat up on him. I did, I beat up on him..." (Id. at 13). Woods admitted calling Hudak's client, Rosanne Cerillius, and telling her on the phone that Hudak was a rapist and extortionist (Id. at 17). Woods said that he only knew Hudak was a rapist because he was told that he was a rapist and he passed the rumor on the telephone (Id. at 18).

In a hearing on June 13, 1988, Patrick Narcissi testified that he was an attorney and had occasion to sit as an arbitrator in the court of Common Pleas





of Allegheny County for the hearings which were held on two cases involving Joseph Hudak, Sharon Lavelle Hudak and Robert Woods; and that he observed Woods' behavior in a hearing approximately "three weeks ago" (TR of 6-13-88 Hearing, DC #43, p 77) (this would make the hearing referred to by Narcissi sometime in late May, 1988). Narcissi described Woods' conduct as "provocative and odd" (Id. at 78). He testified that in the hearing room he observed Woods call Sharon Lavelle Hudak a douche bag on two occasions; that he observed Woods call Hudak a faggot; that at one point, it was necessary for the Chairperson, Diane Berman, to call the sheriff's deputies (Id. at 79); That they ruled against the plaintiff in both causes of action and ruled against the defendant on her counterclaim (Id. at 81); that it appeared to



him that the parties were acting in a way to provoke each other into starting a fight; and that there were bad feelings between the parties, but that these feelings were "more so by the plaintiff (referring to the plaintiff in that case, Woods), I would have to say your Honor" (Id. at 82).

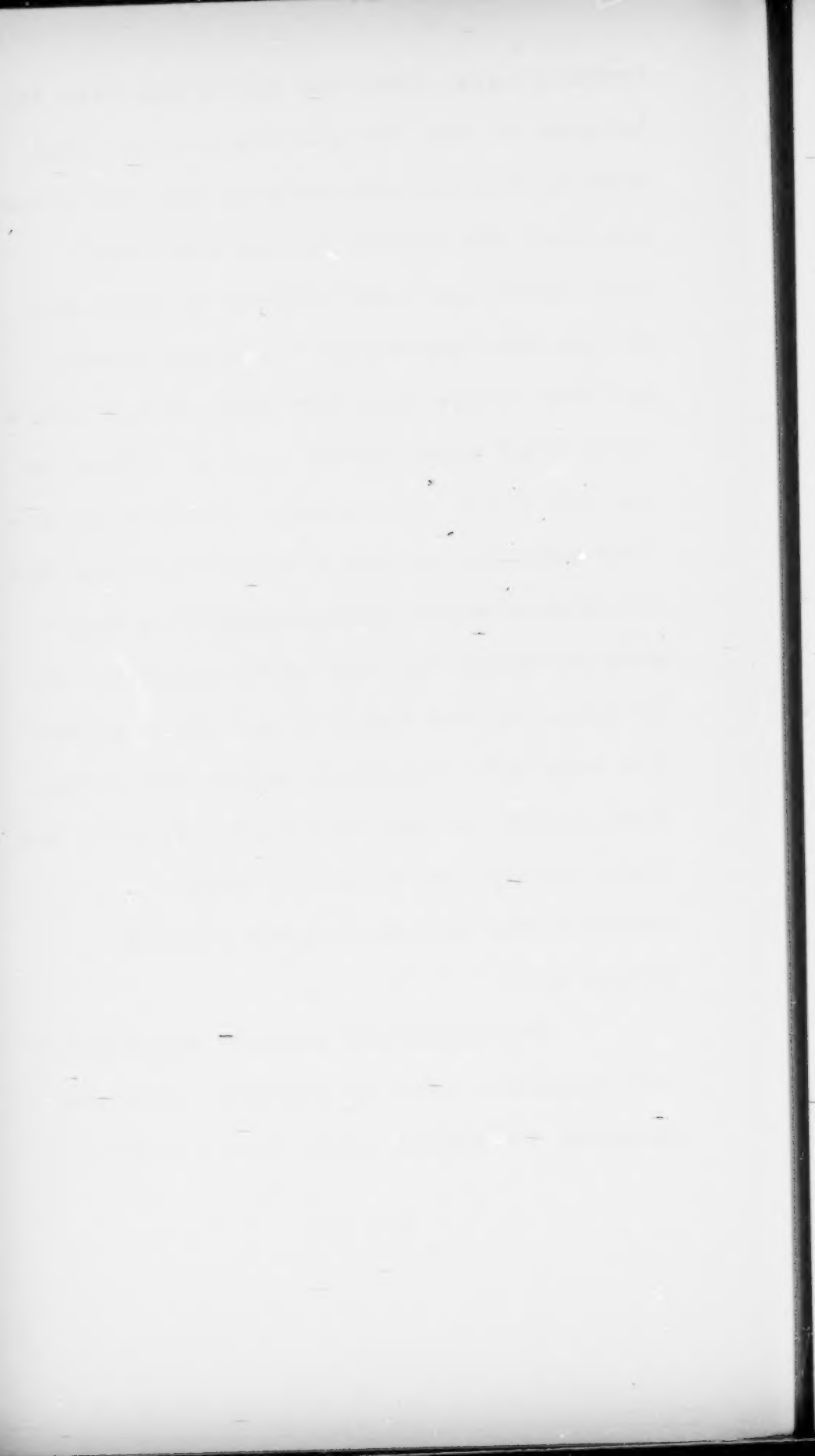
The second completely credible witness was Mrs. Maryann Lampl, the mother of Hudak's attorney, Robert Lampl, and Lampl's receptionist. She testified to the many telephone occurrences during the period of time when Woods was bombarding Hudak. Her responses in court showed her to be open, forthright and honest.

Mrs. Lampl testified that she is the telephone receptionist for the law firm of her son, Robert Lampl; that this law office is located in the Renshaw Building on Liberty Avenue in Pittsburgh,



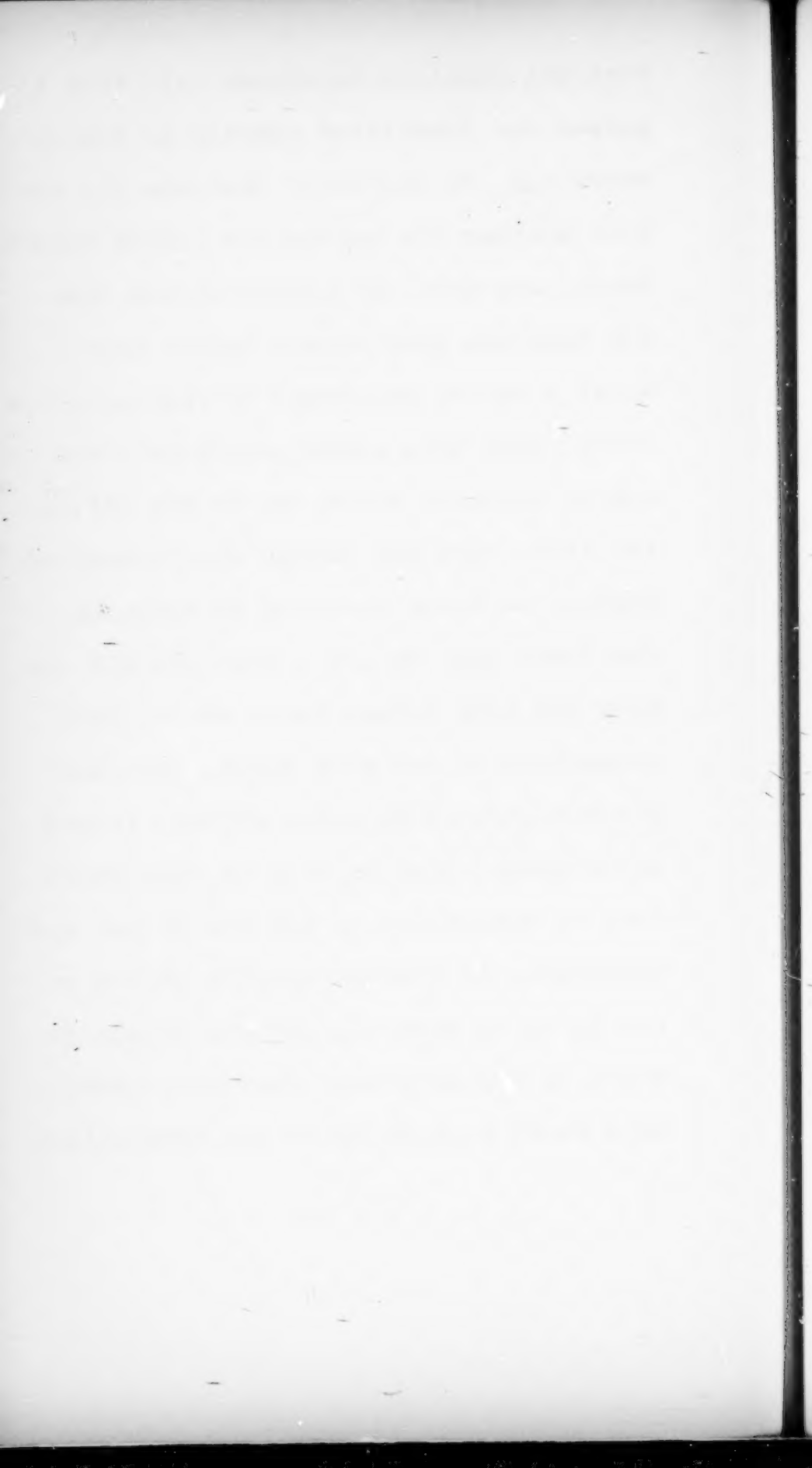
Pennsylvania; that her son's law firm is located on the 7th and 8th floors; that most of the offices were on the 7th floor and that she worked on the 8th floor; that there are some offices in what she called the "penthouse," the 9th floor, but that these were not part of her son's firm; that Hudak moved into an office on the 9th floor in October, 1987 (TR of 06-7-88 Hearing, DC #38 p 152); that she did not know whether arrangements had been made by Hudak for his telephone calls to be taken by the Lampl firm, but that she did take some telephone calls for Hudak, even though he had nothing to do with the Lampl office, or with the Lampl secretaries; and that Hudak did not employ her.

She testified that in November and December, 1987 or January, 1988 she received telephone calls from clients;

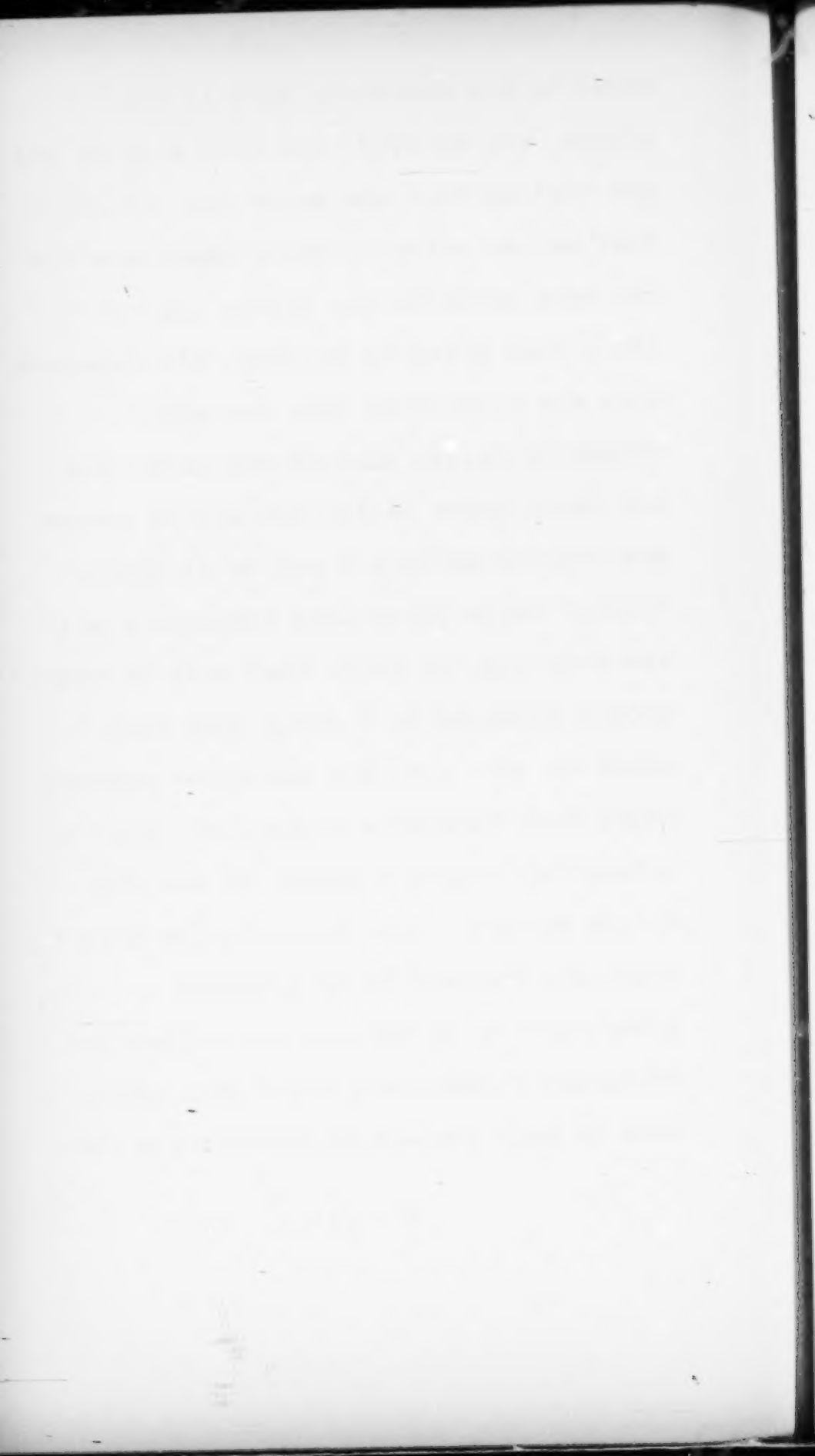


that she received telephone call from a person who identified himself as Robert Woods (Id. at 152-153); that she did not know whether the person was indeed Robert Woods, but that the person stated that his name was John Robert Woods; that after a while, she began to recognize his voice; that this person would call and ask if attorney Hudak was in the office (NT 154); that the person who identified himself as Woods referred to Hudak as the "rat" (Id. at 155); that she did not know who John Robert Woods was or what connection he had with Hudak; that she did not know if he was a client, friend or neighbor; that he said he was coming over to the office to get his things and threatened to disrupt Hudak's office or rip it up in order to get the things to which he was entitled; that Mrs. Lampl told Woods that he could not come unless



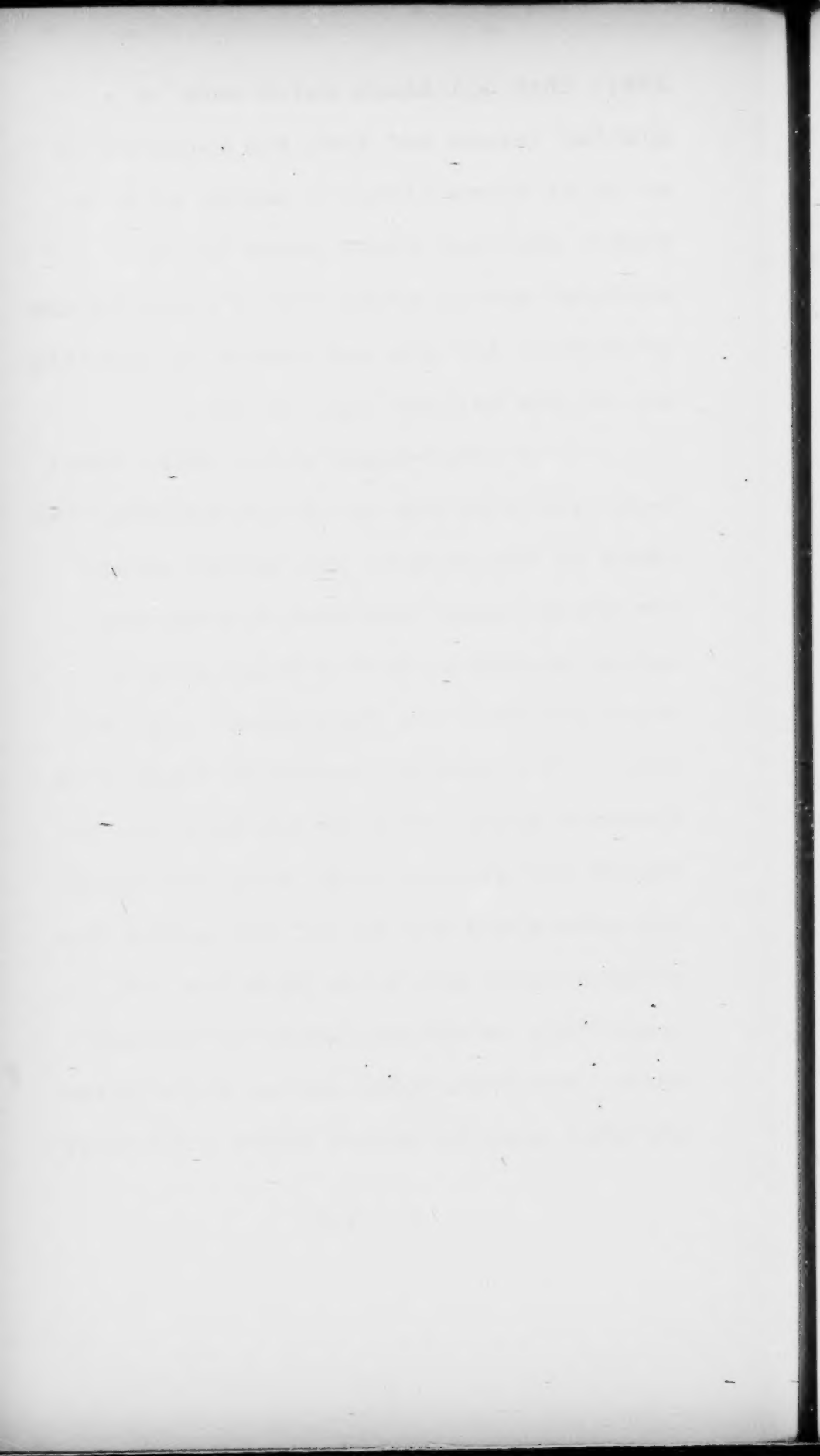


Hudak or his secretary were in the office, but he said, who will stop me and she replied that she would (Id. at 155); that he was going to bring reporters and the news media to the office (Id. at 156); that prior to October, she received what she considered very few odd telephone calls; that in the past, she had nasty phone calls, but all of sudden she started getting a series of really "kooky" calls which were completely off the wall (Id. at 157); that most of these people referred to divorce when they spoke to her; that she was given several names with telephone numbers and was unfamiliar with the names, as was the office manager; that twice during this time, she decided to do a little investigating on her own and called the telephone numbers and found that there were no such numbers in service (Id. at



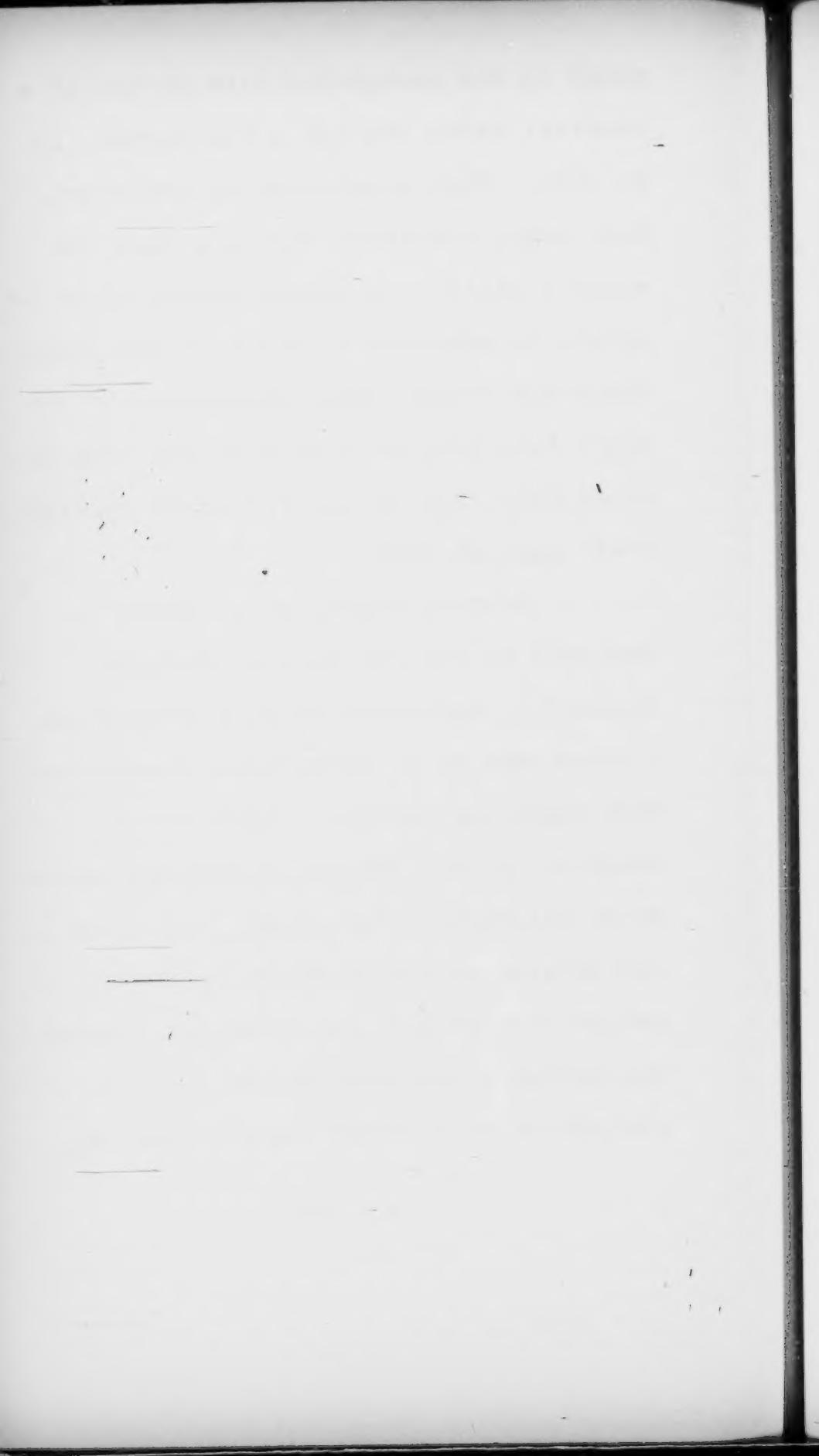
159); that all these calls were of a similar nature and that she received 18 or 20 of these within a matter of five weeks; and that these phone calls occurred mostly after 4:00 o'clock in the afternoon; and she was unable to identify any of the callers (Id. at 160).

In cross-examination, Mrs. Lampl testified that she could not remember the names of the persons who called except for three names, and that one man who called seemed to have a Negro accent which she felt was "pretended" (Id. at 161). This person identified himself as Clarence Brown; this person told her he wanted his divorce right away and could not understand why he had not gotten his divorce; that Mr. Woods gave him the Lampl firm telephone number to contact Hudak; and that Brown called quite often and that when he called there was always



noise in the background like he was at a cocktail party and had a few drinks (Id. at 162). When questioned by the court, Mrs. Lampl testified that she received similar calls from approximately 10 to 15 people in addition to Brown, a man named Chico and Woods. When questioned by the court "how many of them told you that Mr. Woods told them to call?," Lampl replied "90%" (Id. at 170).

Anthony Guida, an attorney employed by the law firm of Buchanan Ingersoll, testified in this proceeding. I found him to be forthright, honest and completely believable. Guida became involved in this matter in his occupation as an attorney. When Hudak rented the law offices at the Bigelow, he fell behind in his rent and moved out. Guida was assigned the case and he filed a confession of judgment lawsuit against

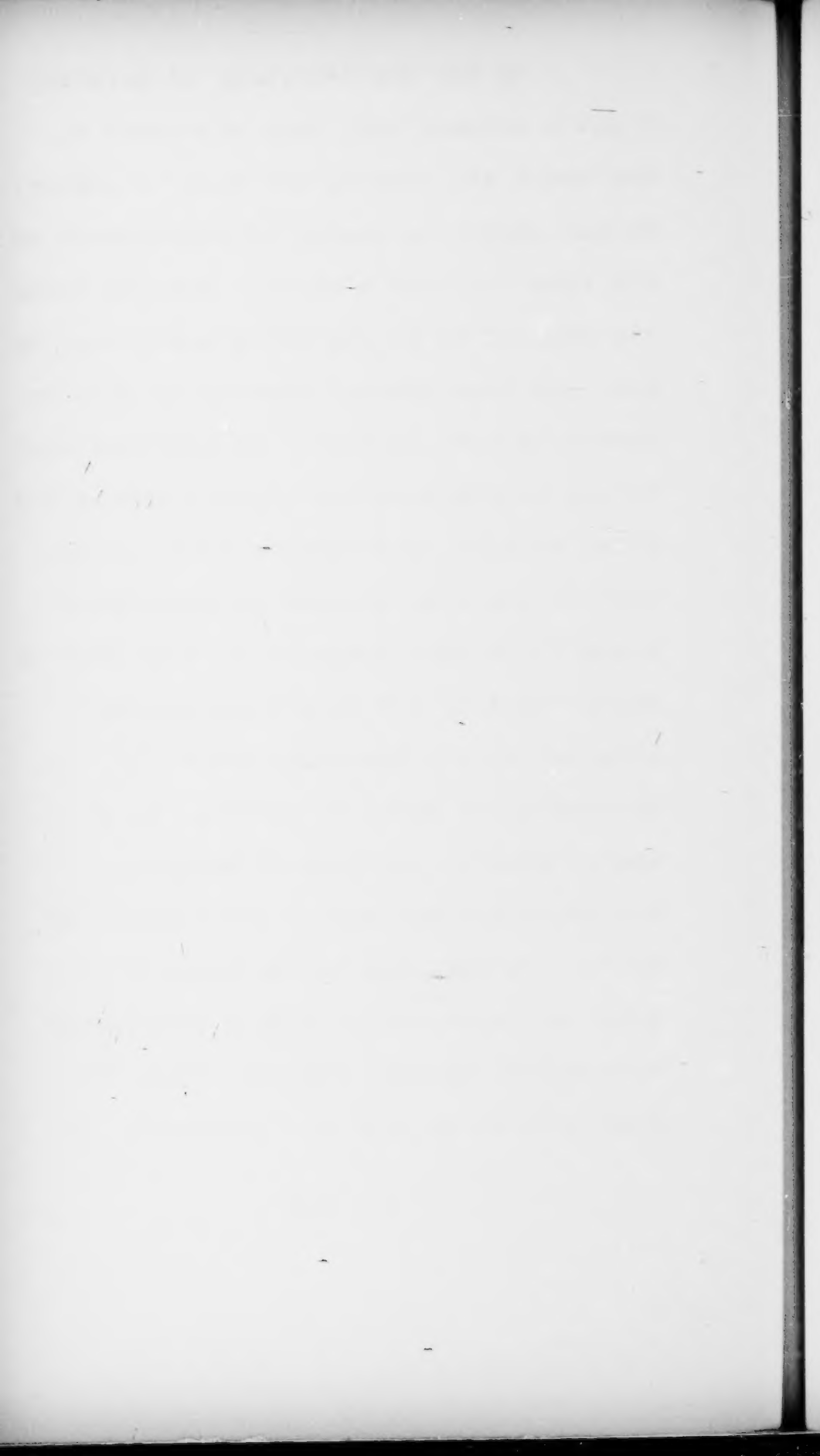


Hudak to obtain a judgement for the back rent and to accelerate on the lease agreement (TR of 6-9-88 Hearing, DC #36, p. 17). He testified that when the judgment was published in the Pittsburgh Legal Journal, he received telephone calls from a person giving him information as to Hudak's whereabouts; that the person who called him to notify him of Hudak's whereabouts identified himself by the name of Richard O'Brian; that O'Brian informed him where Hudak had lived and where he had moved his office furniture; that he received the phone calls only from O'Brian; that these calls occurred after January, 1988; that O'Brian made more than two and less than five telephone calls; and that O'Brian identified himself as an ex-client of Hudak and stated that Hudak had screwed up his divorce.





As for the testimony of Geisler, I saw a witness who, when addressed by the court and turning his head to answer, showed immediate change of countenance as his face lit with a smile. When he faced his counsel as he was being questioned by him, his face gleamed showing me that he testified with emotion. He admitted that he was in business for himself before and after he came into Hudak's association; that he was also engaged in bankruptcy cases which were competitive with that of Hudak; that he did have a percentage interest in all the cases which he processed for Hudak in addition to a weekly salary; and that he strongly indicated his admiration and loyalty to Woods. In response to the court's question regarding Geisler's friendship with Woods, Geisler replied, "Yes, it does have to do with my friendship. I



would stand behind Woods in anything" (NT of 6-14-88 Hearing, DC #44, p. 198). He affirmed this answer two more times when further questioned by the court.

The testimony regarding the high volume divorce and bankruptcy case practice and Geisler's work on the cases is difficult to follow. After the stipulation and injunction, 702 divorce files were turned over to Geisler. Of these cases, 521 had been filed in Cameron County and 181 of these cases needed yet to be filed. Geisler testified that he took only four unfilled bankruptcy cases to complete after the injunction (Id. at 115-116. The decree fees on the 702 cases would amount to \$6,318; the filing fees and the decree fees on unfilled bankruptcies totaled \$360.00; \$11,293.50 would be required as filing and decree fees in



these cases: and the actual amount turned over to Geisler by Hudak was \$10,317.00 (Id. at 118). He testified that there are at least 244 unfinished cases (Id. at 120); that there are various problems in these unfinished cases; that Geisler, in fact, used money turned over to him by Hudak for expenses other than filing fees and decree fees; that Geisler used this money for postage, photocopies and postal receipts (Id. at 124); that Geisler used this money for notary fees, Federal Express, typewriter rental, and stationery (Id. at 126); and that there is no money left in the special account and there continued to be expenditures necessary for court costs (Id. at 127).

\        The stipulated consent order provides in pertinent part the following  
/ for the completion of the cases:



5) on or before September 30, 1987, Joseph E. Hudak shall deliver to Michael S. Geisler all currently active divorce and bankruptcy cases, filed or unfilled, in Hudak's possession.

6) at the time of the delivery of the files, Hudak shall deliver to Geisler the following sums:

a. Thirty-four dollars and Fifty Cents (\$34.50) for each unfilled divorce case;

b. Nine Dollars (\$9.00) for each divorce case that has been filed, but for which an application for decree has not been filed;

c. Ninety Dollars (\$90.00 for each unfilled bankruptcy case.

7. Upon receipt of the above funds, Geisler shall:

a. immediately deposit all funds, into a trustee or client account;





b. keep a record and account of each receipt and expenditure and, on a monthly basis, make available to Hudak for inspection copies of such records and accounts;

c. use such funds only for the purpose for which paid to him.

It is clear from this stipulated order what the funds were to be used for. The funds were to be used as filing fees and decree fees. It is also exceedingly clear that it was Geisler's duty to deposit all of the funds into a trustee or client account and to keep records and use the funds only for the purpose for which they were paid, and to account for all of these monthly to Hudak.

There were various reasons and excuses offered by Geisler throughout the testimony as to why these cases were not completed. The evidence brought before



this court was insufficient to determine exactly what cases are not finished and what need to be done on the unfinished cases. However, this does not provide any excuse whatsoever for Geisler for his non-performance. Number 8 of the stipulated consent order specifically provides "Geisler shall perform the following:

a. efficiently, adequately, and expeditiously, and with the right to resort by any aggrieved party to the presiding Judge, Geisler shall process and complete all of the actions assigned to him (emphasis added);

b. until termination of all cases, Geisler shall report to Hudak on the progress of each case on a monthly basis;

c. until termination of all cases, Geisler shall report to Hudak on



the progress of each case in which special complaints arise on a regular, expeditious basis."

Excuses are worth nothing to this court. Aside from Geisler's general knowledge as a lawyer of his right as an aggrieved party to petition the court, the stipulation specifically provides for this remedy. Instead, Geisler chose to do it his own way, in defiance of this court's order. This court believes that this matter needs further in-depth examination in order to protect the interests of clients whose cases are still pending.

Lori Ann Lassiter, the secretary discharged by Hudak testified on the witness stand with an ulterior motive for testifying against him and favoring Woods. She was then employed by Geisler, in association with Woods (TR of 6-13-88



Hearing, DC #43, p. 5). Her ulterior motive combined with her demeanor in the courtroom demonstrate to this court a complete lack of credibility. I accept none of her statements as credible.

Since Herman Stetzer, the brother of Mrs. Woods, had a financial interest in his testimony and a related interest because he was the brother-in-law of Woods and performed continuing services for which he denied receiving payments, he was not credible by the way he hedged in answering questions dealing with payments from Woods (TR of 6-14-88, DC #44, p. 293). His testimony was not credible.

The solicitor for the Disciplinary Board, Mark Weitzman, appeared on the surface to be a credible witness by his demeanor as did the employees of the District Attorney's





office, Richard McHugh and Edward Tassaro, who were required to investigate and summarize cases before sending them to a magistrate. Nevertheless, there was evidence to show that they were pressured by many persons involved, but especially provoked by Woods and Geisler, to such an extent that they believed these mass complaints were all the fault of Hudak. The large number of these charges should have made them suspicious of the basis for such a mass assault against Hudak.

During the contempt proceeding, an in camera hearing was held, all parties were sworn to secrecy, and the court reporter was ordered to impound the record until further order of court. The hearing was called in camera for determining two motions to quash or modify a subpoena of the plaintiff



against James Shephard and Debbie Hardy, represented by attorney Raymond Seals indicating in the motion that the witnesses might have been guilty of violating prohibitions under the Wiretapping and Electronic Surveillance Control Act, 18 Pa. C.S.A. Section 5701 et. seq. The witnesses were interrogated by Mr. Seals and by this court, and the motions were granted.

This court recognizes that it is an oddity when a daughter testifies against a father or when a father testifies against a daughter, or when a mother testifies against her own child in the way that these closely related individuals talked in the courtroom in the instant case. The plaintiff's wife, Sharon Hudak, formerly Lavelle, nee Woods, was proverbially "caught between the frying pan and the fire." Except in



her case, I believe she was truly in love with Hudak because she gave up much income from her father and a certain amount of love and affection for herself and her children as well as bringing on irritation from her grandmother, and accepted instead merciless antagonism and more vindictiveness by her father, Woods, after her marriage for having chosen the affection and eventual marriage relationship of Hudak.

When she testified before me, I saw how determined she was in her choice of marriage with the plaintiff than for amity with her parents. I could see her anguish and perturbation unmistakably as she spoke. She testified against her father of the persecution against Hudak and her hurt was visible.

She testified that she received 40 calls from clients and 10 calls from



creditors after October, 1987 on her unlisted number and she and her husband, Hudak, received approximately 100 letters at their home on Beechwood Boulevard after October, 1987, but none before then. Sharon testified that her home for which she held title was being foreclosed by the mortgagee, at the insistence of her father, the defendant Woods, and this Wood did not deny; and that she had to make a lump sum payment of \$7,000 to the mortgagee rather than have it go to a sheriff sale. She borrowed the money from relatives, but did not disclose who loaned her the money. While her father had been making cash contributions to her or for her children, Sharon, herself, was not entirely dependent upon him. She is a Registered nurse and is employed at Heritage Shadyside.





Sharon Lavelle Hudak testified that her father, Robert Woods, called her children bastards, and that he called her a douche bag. Specifically, she testified that he stated, "you better not watch the douche bag's bastard children any more" (TR of 6-7-88 Hearing, DC #38, p. 67). She testified that prior to an arbitration hearing, her father kept calling Hudak a faggot and her a douche bag (Id. at 83); that during the arbitration hearing, he kept calling her names before the board, such as douche bag (id. at 84); that Woods kept jumping up and screaming off and on and eventually three sheriffs were called into the room (Id. at 85); that Woods kept trying to kick Hudak under the table during the hearing (Id. at 85); and that twice during the hearing, her father testified that she was not his daughter



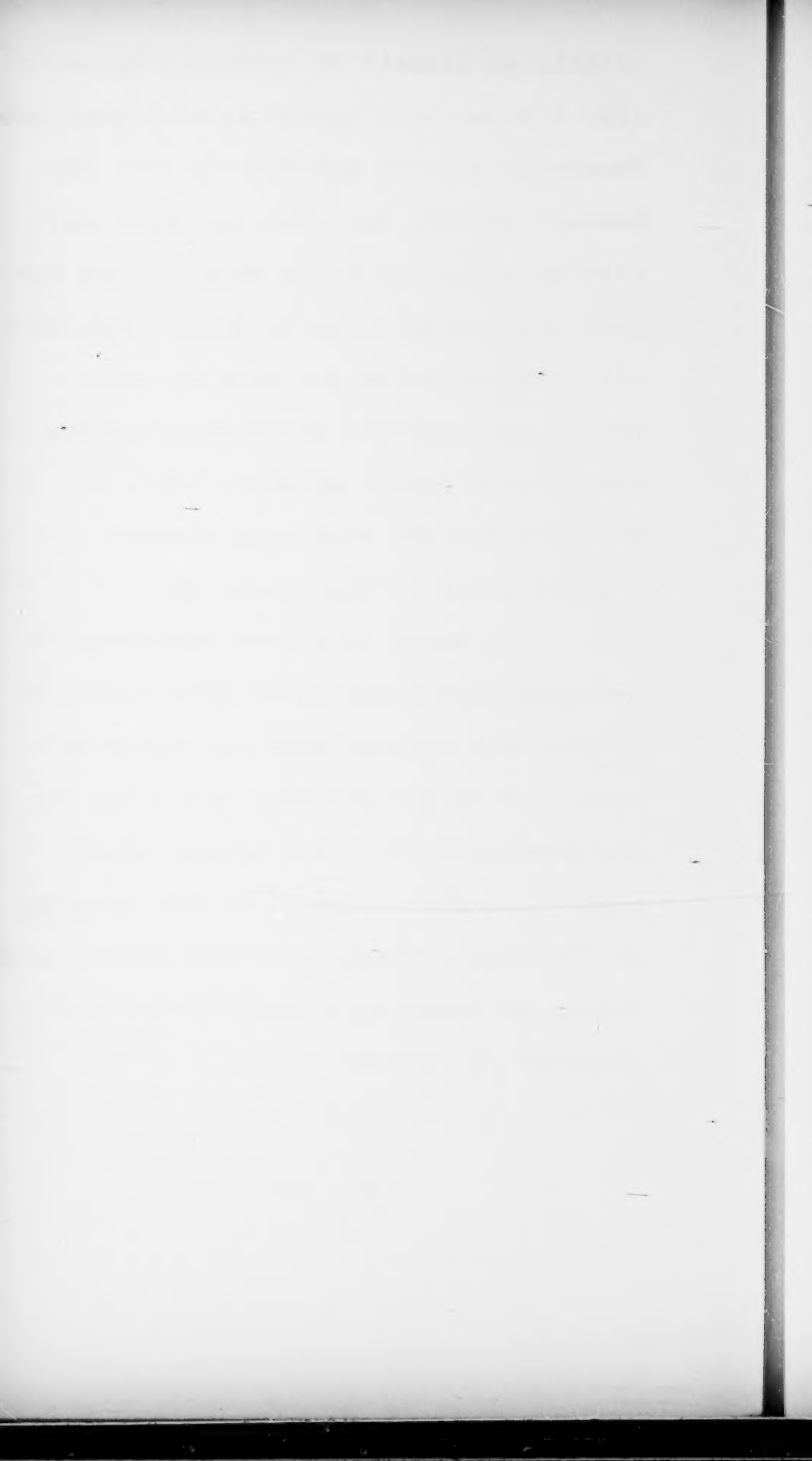
(Id. at 86). Again, this court considers this evidence, not for the purpose of showing the truth of these utterances, but rather to show Woods' attitude toward Hudak and his own daughter as a result of her association with Hudak. See Hunter v. Alles Chalmers Corporation, Supra.

Sharon Lavelle testified that she has observed Richard O'Brien near her home on a number of occasions; that up until about two months ago (this hearing was in June, two months prior to this time would be April), she observed Richard O'Brien near her house at least 10 times a week; that her father gave him her Skyhawk car; that he would go past the house very slowly; that her children come running into the house frightened because of this (Id. at 115); that she received two telephone calls after October 1, 1987 from a person who



identified himself as Richard O'Brien; that O'Brien told Sharon Lavelle that she should go down to the Bigelow that her husband (Hudak) was with his mistress; that he would say "come down now and see what your perfect Joe is doing" (Id. at 116); that O'Brien did this on two occasions; that she never received any phone calls before October, 1987; and that she did not even know Richard O'Brien prior to that time. Id.

It would have been momentous if the defendant Woods would have testified defensively against what his daughter said, but he did not take the stand for any purpose to deny any matter which might have been critical to his defense in the case. Therefore, what Sharon said stands believable, uncontradicted and accepted as factual.



While the defendant Woods did not testify in this contempt hearing and because the contempt hearing is a sequel to the original injunction hearing, it stands and it is incumbent for this court to consider the testimony presented in the injunction proceeding and make such findings of fact which the evidence as a whole by the preponderance thereof based upon credibility or lack of credibility and the relevant exhibits which are material in blending and cementing a composite so that all which happened before this court in these two hearings form a basis for a determination of the issues raised here, and for finalizing this case according to law. See Wilson v. Huffman, 712 F.2d 206 (5th Cir 1983).

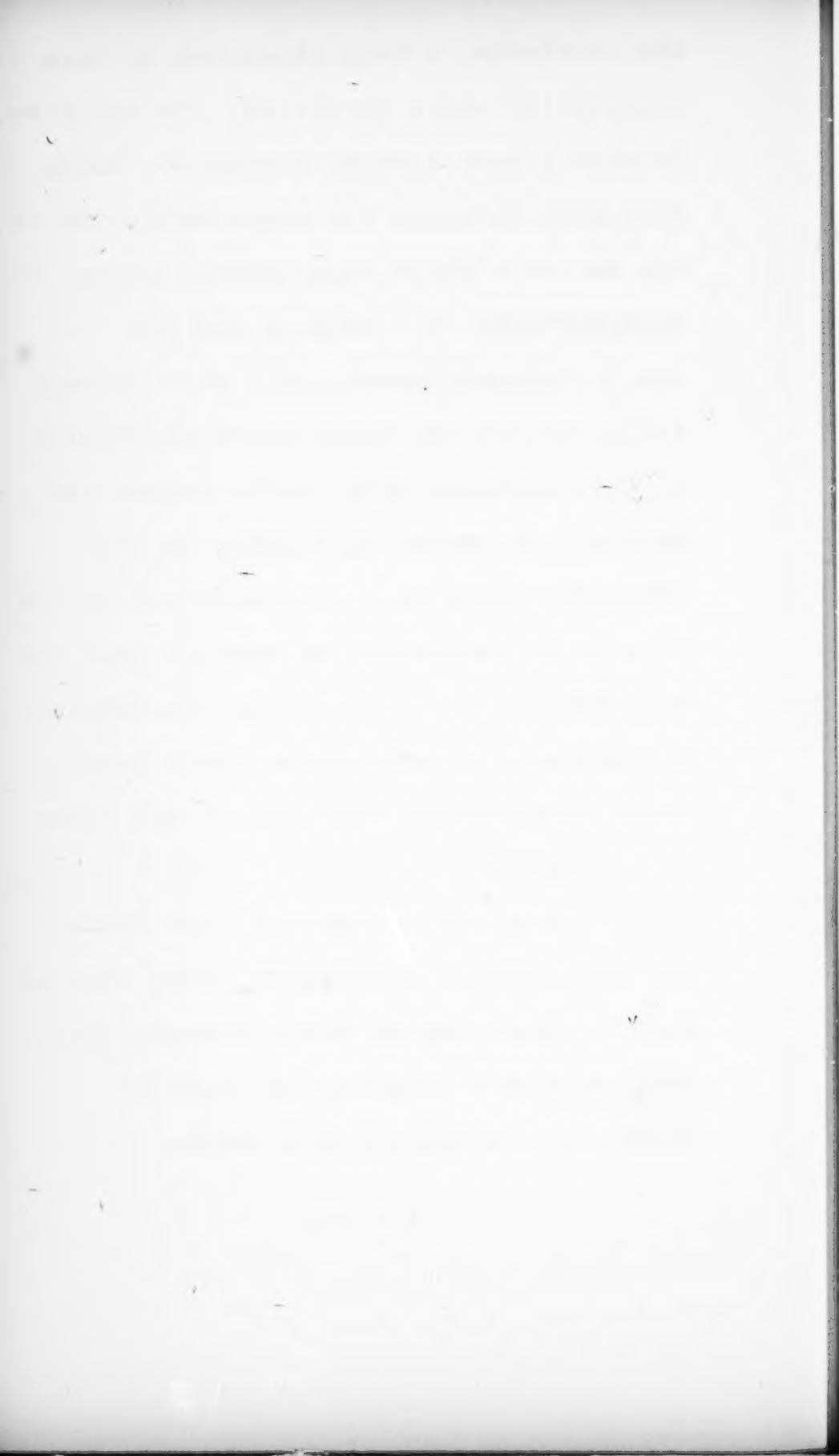
In reviewing the evidence and testimony of Woods and his demeanor on the witness stand and of his conduct in





the courtroom, I have attempted to base credibility where permitted. In addition to what I have already discussed, Woods testimony reflects the characteristics of the man as a whole, his contradicting exaggerations, his ranting and his openly impudent hostility. This witness exhibited, in the words which he uttered in the courtroom under oath, rancor and malice. He wanted this phase of his testimony to be seen and heard and by his failure to contradict so much of what was said against him. Therefore, to extract any elements of believable facts upon which I could base findings in his favor is difficult.

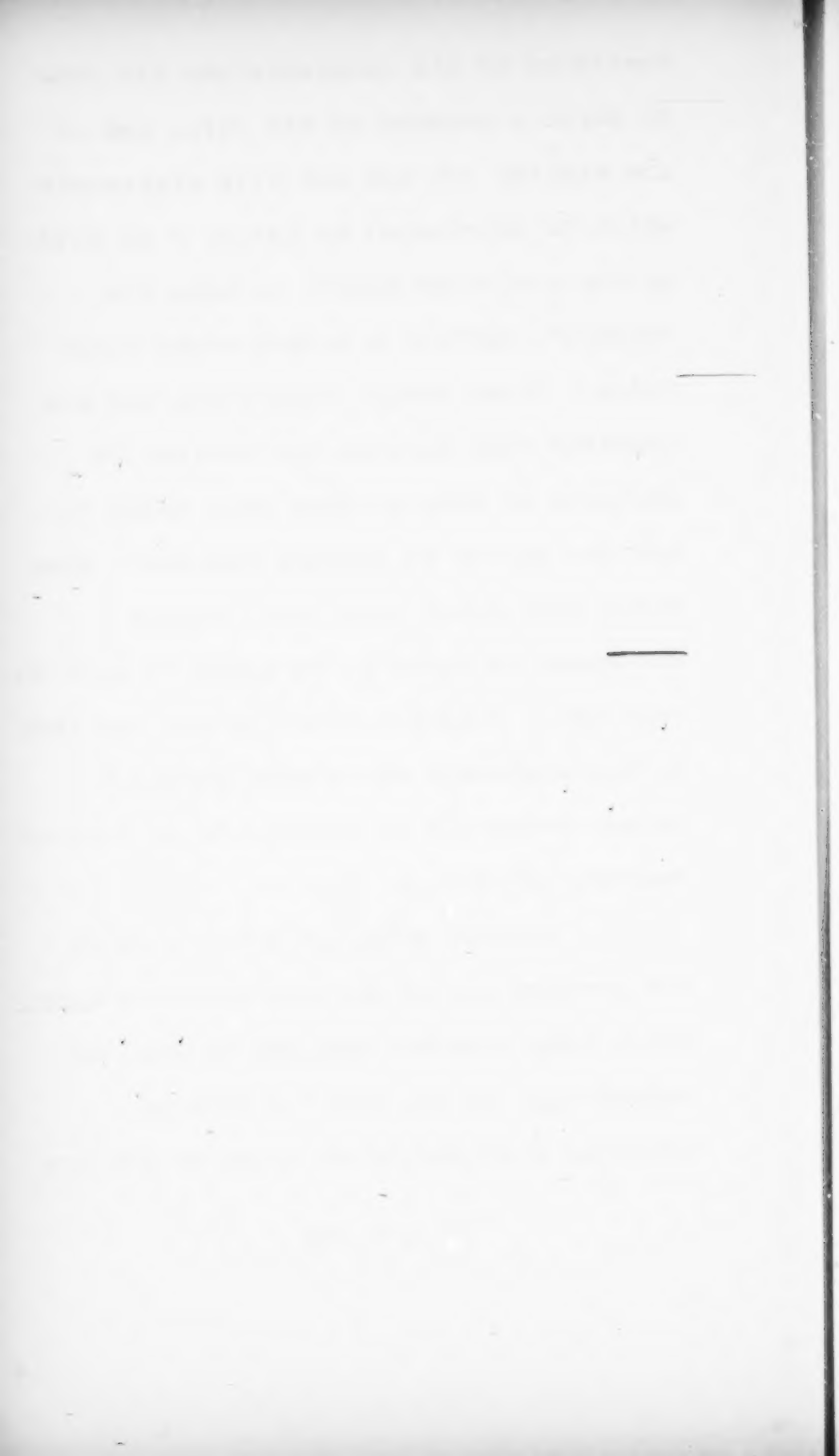
When Woods asserted that Hudak had made certain statements, they were so much in character of Woods himself that they were hard to accept as that of Hudak. It is exactly like Woods'



testimony of the constable who had come to serve a summons on his wife, and of the similar out and out vile statements which he attributed to having been said by the plaintiff Hudak, to have him, "Robert", destroy a Common Pleas Court Judge. These Woods' utterances are not repeated here because the recital is derisive of race so that when added to his own malice it becomes obscene. When Woods attributed this vile, vulgar statement as Hudak's, he added "I want to ruin her. I want to destroy her, as that is his statement about many people."

(Woods referring to Hudak) TR of 9-21-87 Hearing, DC #37, p. 26).

Further examples are: "I am in the process now of getting Sharon's kids taken away from her because of you, Mr. Hudak" (Id. at 5); and "I told my daughter that she is as crazy as you are



if she even associates with you. I told her how you react, how you foam at the mouth, how snot comes down your mouth, how you're the town idiot, and you're a total alcoholic drunk and you're nuts" (Id. at 6).

On another occasion, Woods charged the constable who was serving a summons or subpoena on his wife with rape which he later reduced upon questioning by the court to attempted rape and then to beginning of attempted rape (Id. at 12,13).

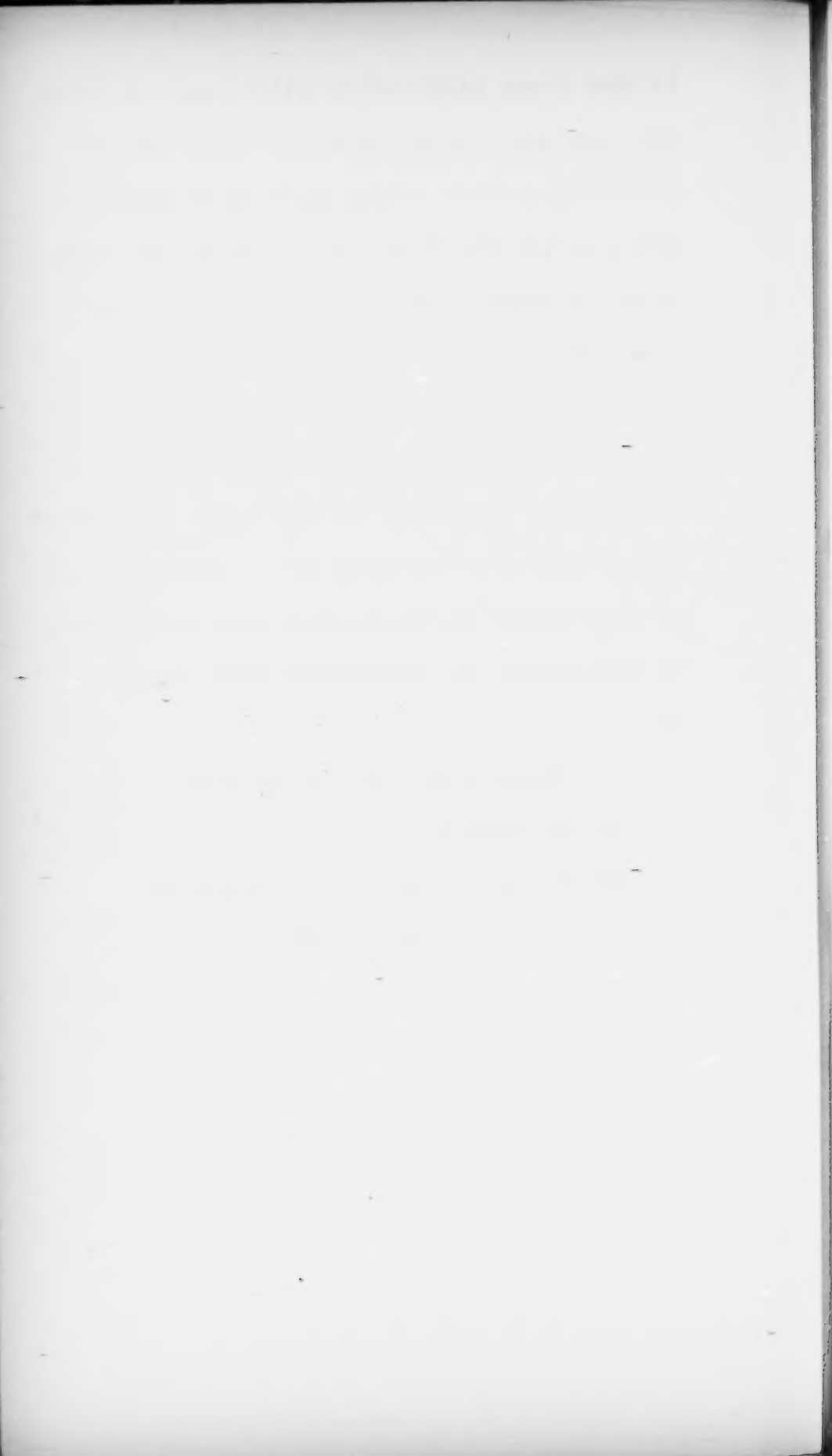
Upon questioning by Hudak, the following ensued:

Q. "Did you yourself telephone my client, Rosanne Cerillius?

A. Yes.

Q. Did you tell her that I was a rapist?

A. Yes.



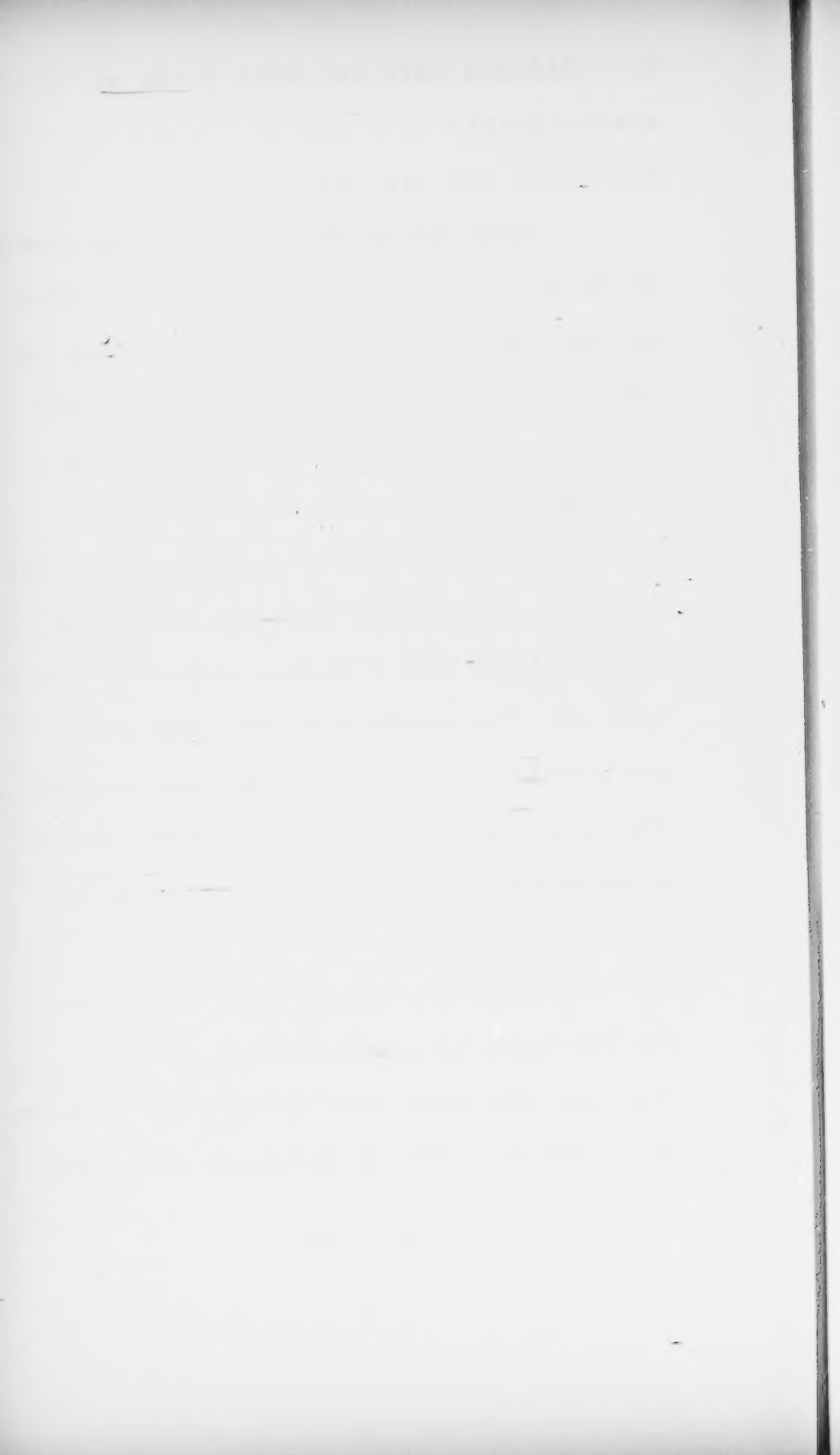
Q. Did you tell her that I was an extortionist?

A. Yes" (Id. at 17).

When Woods was asked by the court if he was a lawyer, he said no, but that he had the right to all legal matters in the file room of the Hudak law firm and that he took the message pads because they had telephone calls which the receptionist had not given to him (Id. at 26). He also called Hudak's secretary and admitted that " I told Bonnie you are nuts and I'm afraid for her insanity. And I said, if you don't believe me, ask anyone who's associated with him, except my daughter, that you are, that you are nuts" (Id. at 14).

Woods testified that "prior to her becoming involved with Mr. Hudak ... [he] and she were very close" and that he had given her many gratuities, but that





her relationship with Mr. Hudak has caused "a rift between me, a rift between my wife and my daughter, a rift between my mother-in-law and my daughter, a rift between my other daughters and my daughter. And one of the main reasons is that I am scared to death that Mr. Hudak is going to kill" (Id. at 32-33).

The plaintiff Hudak called as one of his witnesses his mother-in-law, Geraldine Woods. Her testimony also revealed acrimony and her lack of knowledge of her husband's business which it was said belongs to her. In fact, she stated "they were, because I am the company and he (Woods) handled everything," and "I'm the company. He handles the company. He manages the company" (TR of 6-9-88 Hearing, DC #36 p. 66). She stated that Woods handles the business and she handles her home; that

(3)

89-517

No.

FILED

SEP 25 1989

JOSEPH F. SPANIOLO, JR.  
CLERK

---

SUPREME COURT OF THE UNITED STATES

---

October Term, 1989

---

ROBERT WOODS,

Petitioner,

vs.

JOSEPH E. HUDAK,

Respondent.

---

Writ of Certiorari  
to the United States Court  
of Appeals for the Third Circuit

---

APPENDIX TO  
PETITION FOR WRIT OF CERTIORARI  
VOLUME II

---

JOHN M. SILVESTRI, ESQ.  
Attorney for Petitioner  
828 Frick Building  
437 Grant Street  
Pittsburgh, PA 15219-6002  
(412) 391-0958

134



APPENDIX TO  
PETITION FOR WRIT OF CERTIORARI

Volume I

Page

Opinion Of The United States Court Of Appeals For The Third Circuit, Per Higginbotham, Stapleton And Rosenn, JJ. . . .	A-1
Memorandum Opinion Of The United States District Court For The Western District Of Pennsylvania Dated October 1, 1987, Per Rosenberg, J. . . . .	A-55
Memorandum Opinion Of The United States District Court For The Western District Of Pennsylvania Dated October 21, 1988, Per Rosenberg, J. . . . .	A-64
Opinion Of The United States District Court For The Western District of Pennsylvania Dated December 22, 1988, Per Rosenberg, J. . . . .	A-79

Volume II

Memorandum Opinion Of The United States District Court For The Western District Of Pennsylvania Dated January 9, 1989, Per Rosenberg, J. . . . .	A-188
Ex Parte Motion For A Temporary Restraining Order . . . . .	A-192
Stipulation for "Consent Order" dated September 30, 1987 (Paragraphs 1-4 & 11-17). . . .	A-203



(Appendix - Continued)

Page

Order Of The District Court Dated October 1, 1987 . . . . .	A-208
Dismissal Of The Bankruptcy Case Dated November 30, 1987 . . . . .	A-210
Motion For Contempt Of March 31, 1988 (Paragraphs 1-64). . . . .	A-212
Motion For Contempt Of April 7, 1988. . . . .	A-241
Motion To Dismiss Contempt Proceedings . . . . .	A-247
Order Of The District Court Dated October 21, 1988 Denying Motion To Dismiss Contempt Proceedings . . . . .	A-254
Order Of The District Court Dated December 22, 1988 Adjudicating Contempt And Imposing Additional Conditions On The Parties . . . . .	A-255
Order Of The District Court Dated January 9, 1989 Disposing Of Post-Trial Motions. . . . .	A-269
Judgment Of The Court Of Appeals Dated June 28, 1989 Affirming The District Court With Modifications . . . . .	A-270
Order Of The Court Of Appeals Dated June 30, 1989 Amending The Judgment Of June 28, 1989 . . . . .	A-273

NOTE: The misspellings of the district court opinions are not corrected herein.

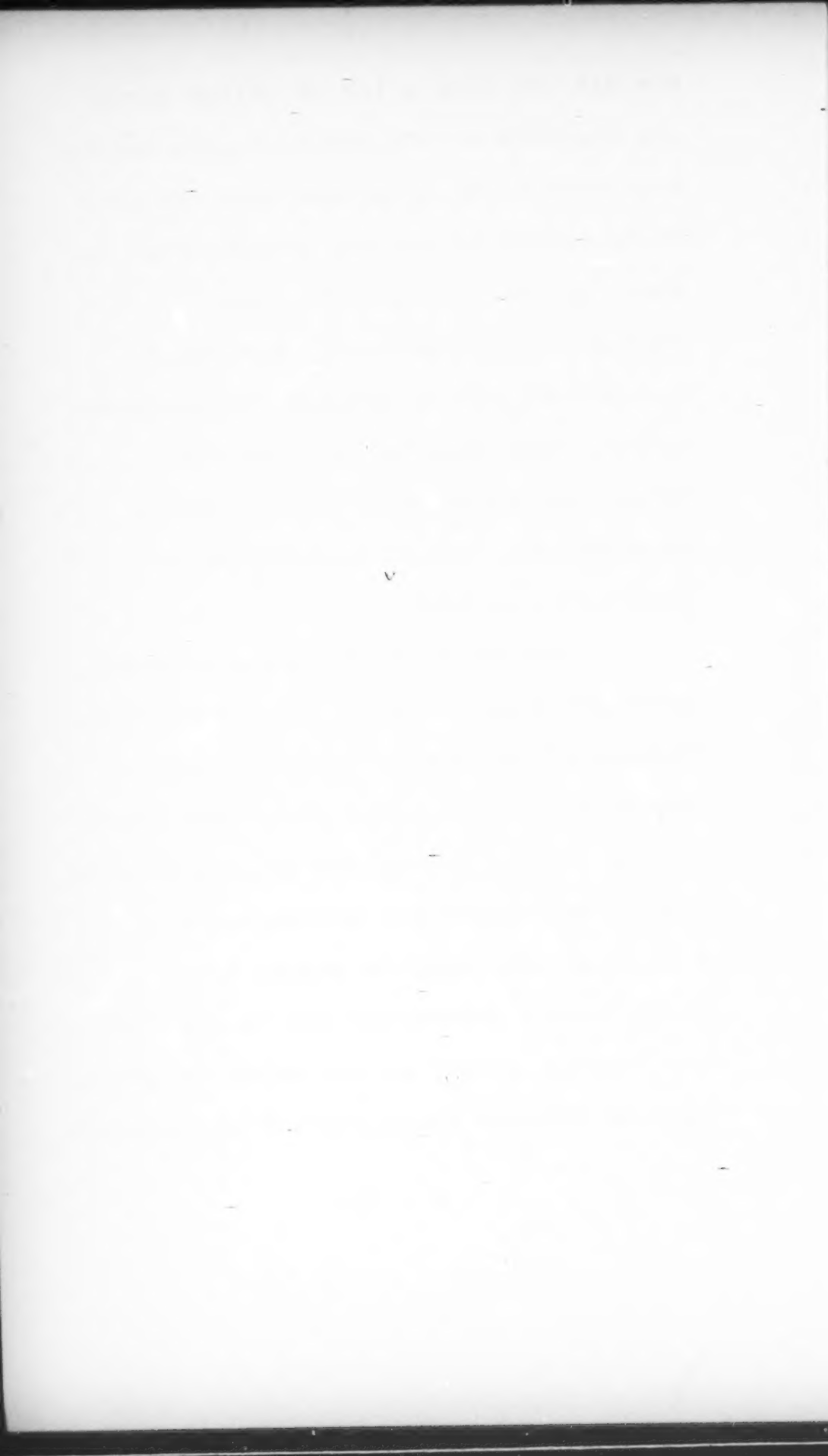




she did not know a lot of things about the business or the way to handle things that have to be done; and that she lets Woods handle it and she accepts what he does (Id. at 73, 74, 108, 109).

Throughout her testimony, she was a little less bitter towards her daughter, Sharon, than towards her then son-inlaw, the plaintiff. Her acrimony, nevertheless, showed plainly her innermost feelings.

The evidence of Geraldine Woods, sometimes known as G. Woods, is striking because of her actual testimony and of the manner in which she spoke and acted on the witness stand, and specifically on one occasion when she contemptuously addressed this court's deputy after my court deputy instructed her to stay in the witness stand, as she tried to leave, because she was still a sworn witness and



had not been excused by the court. The deputy, Miss Paula Templeton, has been a deputy in this court for many years and is highly respected for her honesty and honor. On one occasion, Miss Templeton suddenly stood up, faced me on the bench and excitedly said, "She just called me a bitch." I then excused the witness, Mrs. Woods, and after swearing Miss Templeton, requested her to testify to the this interrupting event.

In defense, Mrs. Woods' counsel questioned her on the stand and she testified that she only called the deputy a witch. I do believe Miss Templeton and I do not believe Mrs. Woods because of her general demeanor and testimony while on the stand; but even if she called Miss Templeton a witch, it would still be disrespectful and contemptuous to so address a court official while doing her



duty. It shows the manner of person Mrs. Woods is when she used such antics in a courtroom. Calling Miss Templeton either a bitch or a witch made no difference since either term was insulting and contemptuous of her official authority by a witness on the stand. It was this attitude and demeanor which, expressed in her own words, deteriorated her credibility to the point of almost collapse, except for the important statements of actually testifying against herself and her husband, such as when she said she did not know anything about her husband's business and she admitted that she and her husband committed various acts against their daughter due to her association with Hudak (Id. at 12-15, 100-103).

Whether her ignorance in this connection was feigned or real is



indicative of the fact that her husband, Robert Woods, instead of being just the manager of the business, as stated, was in fact the owner and had control over the assets in his wife's name, or other veiled names. While it seemed an admission against interest - her interest - it was also a revelation of her wifely functioning for her husband to conceal his assets. This conclusion I have made from her testimony as a whole and from all the other evidence in the case whereas here and there we find specimens or volcanic outpourings such as already indicated in the "bitch/witch" quote. Thus while Mrs. Woods was, strictly speaking, the plaintiff's witness because he called her, her testimony was neither in her nor her husband's favor.

The defendant produced, as a part of their defense, attorney John M.





Silvestri, who testified to a scuffle which occurred in the corridor outside a Common Pleas' courtroom after a judge had held Hudak not guilty in a Wood's criminal prosecution used as an attack by Woods. Silvestri was not a defendant in the injunction, but was named as a party in the contempt proceeding. Two different versions were given, one by Silvestri that he stood two feet away from Woods and Hudak; that Hudak was the aggressor and came towards Woods, and made the assertion that Hudak had sexual relations with Woods' wife and Woods' secretary, Heather; and that it appeared that Woods spit in Hudak's face.

Hudak's recital is that when he came out of the courtroom into the corridor, he addressed Silvestri, Woods' lawyer, out of the presence of Woods to intercede for a reconciliation, but that



Woods came up to him and called him a "fucking pig face," and then when Hudak allegedly returned a slurring remark, Woods spit in Hudak's face. Thereupon, Hudak struck Woods defending himself presumably, as any man would. After Woods grappled with Hudak, they both fell to the floor, and the sheriff separated them both. There was no question that Woods spit in Hudak's face from testimony by both Woods and Hudak witnesses, and that Hudak then struck Woods.

The question of credibility exists here between an out-of-court party defendant-retained lawyer for Woods and the plaintiff Hudak for the court to consider and decide. This court studied Silvestri's demeanor and testimony on the stand. Silvestri was an accommodating lawyer turned witness. Through the short period while on the stand and while he



was not under heavy questioning, he seemed to take pleasure in testifying against Hudak. He sometimes said he did not remember or his attitude seemed evasive.

The plaintiff Hudak, on the other hand, is a simple, highly emotionally involved individual in this case, acting as his own attorney. He has been through much and on frequent occasions, as of the time of the altercation in the Common Pleas' corridor, was, it seemed to me, attempting to get a clan of bears off his back. It appears that was how he addressed Mr. Silvestri. What followed afterwards came from Hudak with an effort to get even with Woods. When Woods became irate and spit into Hudak's face, the striking afterwards was probably a very human act even from an individual



who had just been trying to bring about peace.

With this detailed resume of the charges, defenses and all of the evidence before me as a whole, I find and make the following Findings of Fact:

that with some repetition of what was contained in the previous opinion that Robert Woods, the defendant, made connection with Joseph E. Hudak who recently had been admitted to the Bar and made an agreement with him by which he advanced him not \$30,000 or \$50,000 as previously though but \$80,000 as was late revealed at this second hearing, for the purpose of setting up a legal firm under the name of Joseph E. Hudak;

that advertising would be used to invite divorce and bankruptcy cases; that over a period of a year, approximately





1,000 divorce and bankruptcy cases were procured by the advertising;

that Woods became a part and parcel of the firm and engaged in his own bankruptcy business of some sort and used a part of the law premises as his office; that Woods had free access to the files and records of the law firm and exercised as well some unrevealed participation in the management of the Hudak law firm;

that the firm hired on Michael S. Geisler as a lawyer to perform legal duties in both bankruptcy and divorce cases;

that Geisler received a basic weekly amount plus a 10% commission;

that Geisler also brought cases with him into the Hudak law firm and continued to practice law as an individual and handled his own separate bankruptcy and divorce cases with or



without the knowledge of Hudak and processed these in his own name from the Hudak law office;

that Woods chose Hudak without coercion and presumably fully knowledgeable of his reputation, character and characteristics as his advertising divorce and bankruptcy associated to whom he eventually voluntarily turned over \$80,000, without visible security;

that Woods exhibited, initially, total friendship with no signs of ill feelings or bitterness towards Hudak;

that during these many months, approximately 1,000 bankruptcy and divorce cases were acquired;

that the Hudak association hired Attorney Geisler and others to process these Hudak advertisingly procured cases;



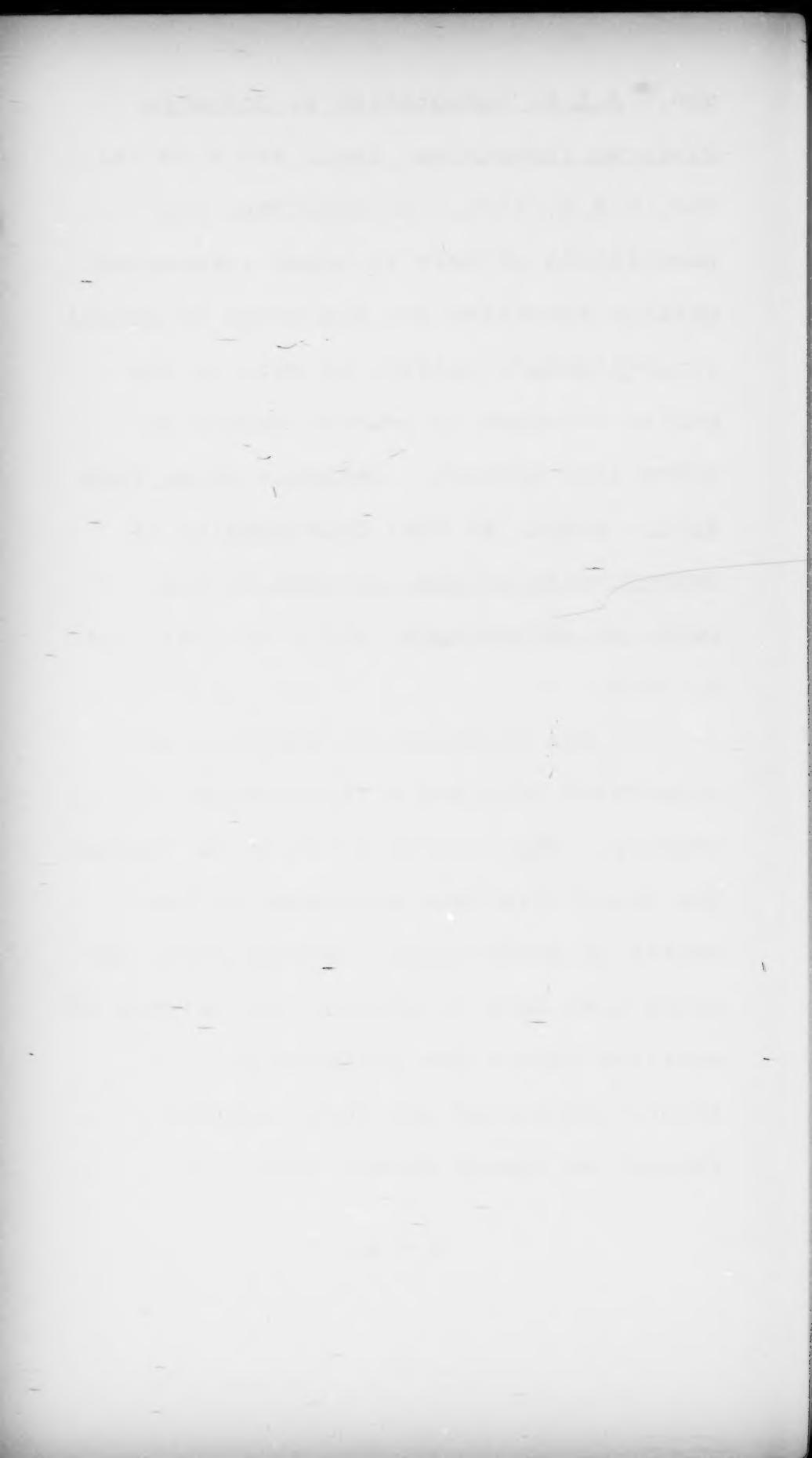
overlook the functioning of these attorneys before the court in relation to their clients in an adequate, proficient and ethical manner. This action is one of equity for federal court functioning and for its judicial concern, as presenting cause for the granting of controlled injunctive relief.

As a prerequisite to the issuance of a preliminary injunction, the plaintiff must demonstrate "a reasonable probability of eventual success on the merits, "Continental Group, Inc. v. Amoco Chemical Corp., 614 F.2d 351, 36-357, C.A.3, 1980; Delaware River Port Authority v. Transamerica Trailer Transport, Inc., 501 F.2d 917, C.A.3, 1974; and "that it will be irreparably injured pendente lite if relief is not granted to prevent a change in the status



quo," A.L.K. Corporation v. Columbia Pictures Industries, Inc., 440 F.2d 761, 763, C.A.3, 1971. In addition, the possibility of harm to other interested parties resulting for the grant or denial or preliminary relief, as well as the public interest in general should be taken into account. Delaware River Port Auth., supra, at 920; Commonwealth of Pennsylvania ex rel. Creamer v. U.S. Dept. of Agriculture, 469 F.2d 1387, C.A. 3, 1972.

The standard for granting an injunction involves a three-stage inquiry. The initial question is whether the plaintiffs have succeeded on the merits of their claim. Beyond that, the court must look to whether the balance of equities favors the granting of injunctive relief and what form the injunctive remedy should take.





Philadelphia Welfare Rights Org'n. v.  
O'Bannon, 525 F.Supp 1055, 1057 (E.D.  
Pa., 1981); Prohorsky v. Prudential Ins.  
Co. of America, 548 F. Supp. 1337  
(N.D.Ind., 1984).

I find that irreparable harm has already resulted to Hudak and his clients, to the profession of lawyers, and to the public at large; and that the movant and plaintiff has no remedy at law. I find that the plaintiff has a more than reasonable probability of eventual success on the outcome of the case, on the basis of merit. Accordingly, the stipulation and request for a preliminary injunction by this court will be granted.

The Findings of Fact and  
Conclusions of Law as required by Rule 52  
are contained herein in addition to the

THE UNIVERSITY OF CHICAGO

LIBRARY

540 EAST 57TH STREET

CHICAGO, ILL. 60637

TEL. 733-4331

1968

THE UNIVERSITY OF CHICAGO

LIBRARY

540 EAST 57TH STREET

CHICAGO, ILL. 60637

TEL. 733-4331

1968

THE UNIVERSITY OF CHICAGO

LIBRARY

540 EAST 57TH STREET

CHICAGO, ILL. 60637

TEL. 733-4331

1968

THE UNIVERSITY OF CHICAGO

LIBRARY

540 EAST 57TH STREET

CHICAGO, ILL. 60637

TEL. 733-4331

1968

stipulation of facts filed by the parties  
in this Memorandum.(1)

---

(1) Rule 52. Findings by the Court

"(a) Effect. In all actions tried upon the facts without jury . . . the court shall find the facts specially and state separately the conclusions of law thereon . . . . If an opinion or memorandum of decision is filed, it will be sufficient if the findings and conclusions of law appear therein."



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDAK,  
Plaintiff,

)  
)  
)  
)

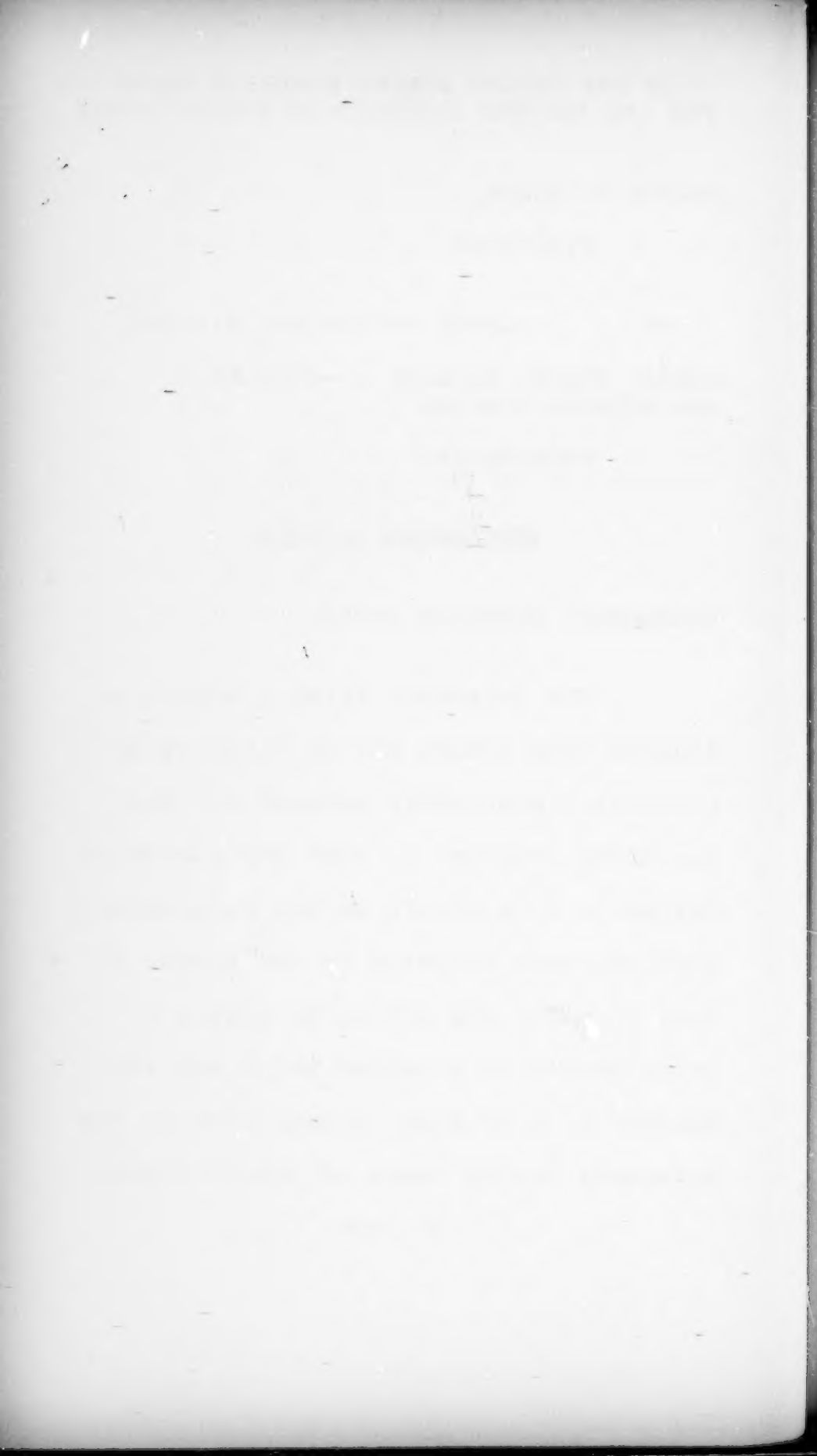
vs. CIVIL ACTION NO. 87-1999

ROBERT WOODS, MICHAEL S. GEISLER )  
and RICHARD O'BRIAN )  
Defendants. )

MEMORANDUM OPINION

ROSENBERG, DISTRICT JUDGE

The defendant filed a Motion to Dismiss this action and to dissolve an injunction previously entered for the following reasons: 1) that the plaintiff failed to file briefs as the defendants indicate were mandated by the court; 2) that in part, the action is merely a relitigation of a matter which was the subject of a criminal prosecution in the Allegheny County Court of Common Pleas;



and 3) that this court lacks jurisdiction over this matter because it is grounded in the pendency of a bankruptcy petition which has since been dismissed.

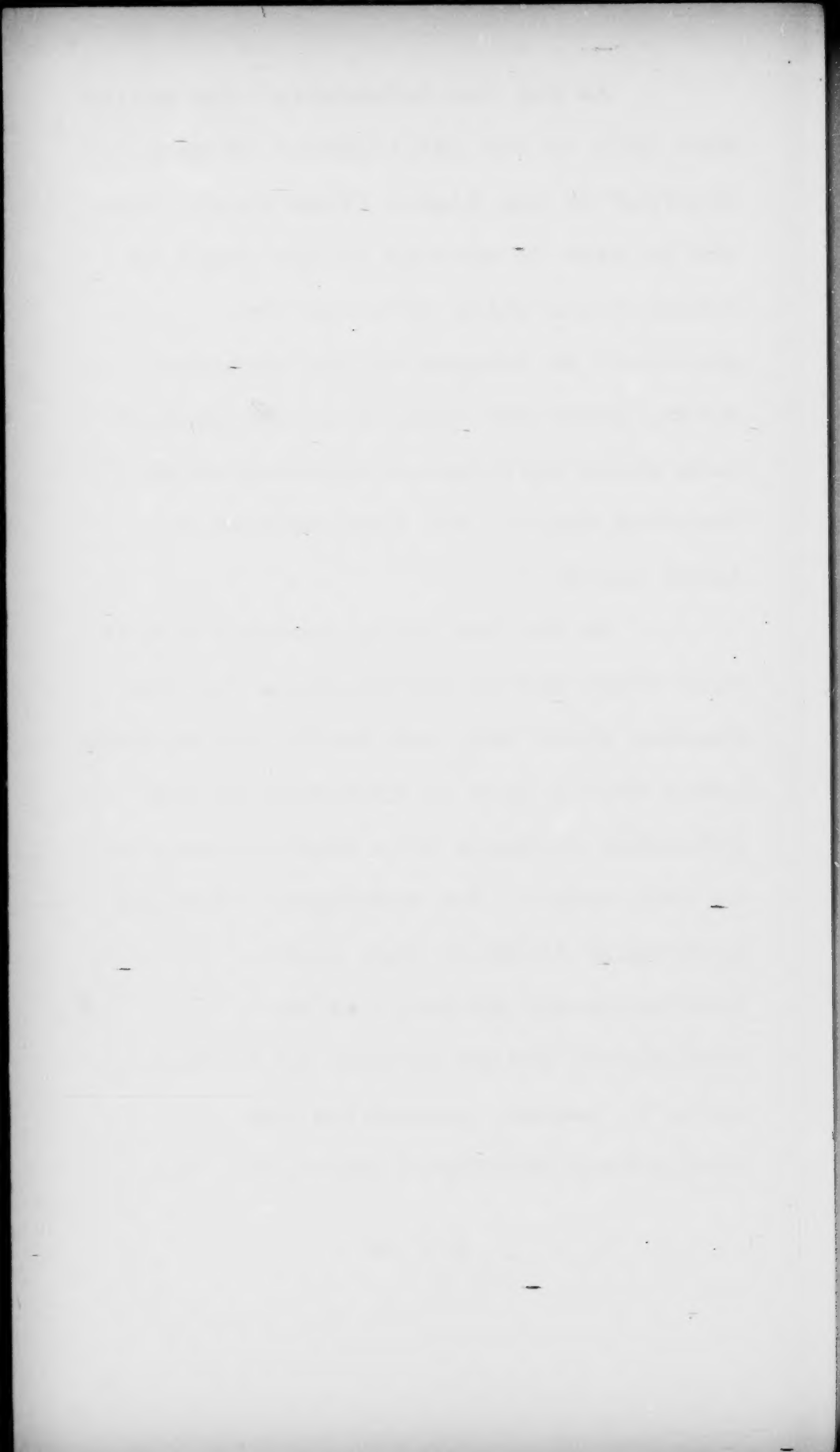
As to the first contention that the plaintiff failed to file briefs, the defendant evidently is not cognizant of the fact that briefs are not a matter of record, but are only documents usually requested by the court to aid the court in defining facts and in presenting authority which the court might desire. In this case, the court actually saw no need for briefs because it merely suggested that if the parties wished to file briefs, they could do so within certain periods of time. That did not make it mandatory for anyone to file briefs and therefore, this contention is without merit.





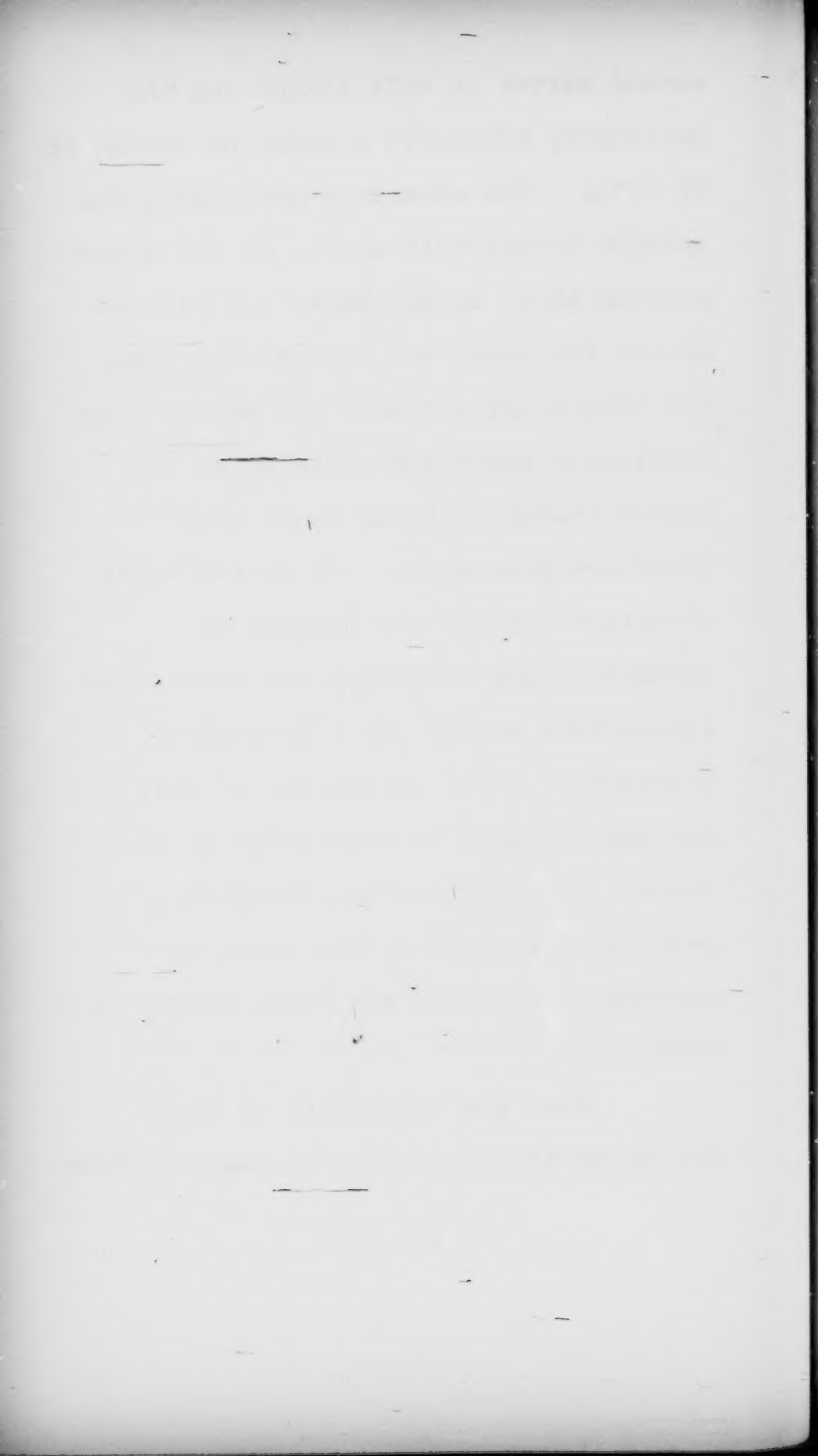
As for the defendants' contention that this is now relitigation of what occurred in the Common Pleas Court, that too is made to actions in the Court of Common Pleas which involved the plaintiff as brought by the defendant Woods, there was nothing in the instant case which relitigated anything which occurred there. So, this contention lacks merit.

As for the third contention that this court has no jurisdiction for the reasons which they set forth, the movants again show a lack of knowledge of the processes in which this case has arrived in this court. The bankruptcy case was originally filed in that court, Bankruptcy No. 87-1851, as an involuntary action brought by counsel, Yaier Y. Lehrer, presenting the involuntary bankruptcy petition. The



second matter in this action was the bankruptcy adversary proceeding docket at 87-00356. The adversary proceeding was brought before this court, as the docket entries show, on September 16, 1987 as motion for temporary restraining order and this court withdrew the matter from bankruptcy court and assigned to the United States District Court this adversary proceeding. It stated "this withdrawal is for the purpose of correcting and modifying the same as an appropriate action for a preliminary injunction, Civil Action No. 87-1999," and was assigned to this judge in this court. Jurisdiction was accepted, received, retained by the court on September 22, 1987, and still exists in this court.

When the defendants in their motion to dismiss set forth the fact that



"this court lacks jurisdiction over this matter in as much as the court's original jurisdiction was grounded on the pendency of a bankruptcy petition which has long since been dismissed" (Def. Motion to Dismiss, p. 2 (11), they refer to Item 24 in the bankruptcy proceeding 87-1851 dated November 30, 1987, the stipulation for the withdrawal of the bankruptcy petition on behalf of Woods, signed on November 30, 1987 modified December 2, 1987 and certified that "all creditors had been advised of this motion to dismiss." the case was dismissed and the case is closed.

This court was not notified of this action. It appears, given the complicated nature of this case, that perhaps all creditors of the Hudak law firm were not properly notified in this case and general averment or



certification to this effect is insufficient for this court.

The matter before me now involves the alleged contempt of a preliminary injunction entered by this court on September 30, 1987. This court's powers of contempt are not limited by the dismissal of the underlying action. The District Court's power to punish for contempt is inherent and includes the bankruptcy courts. Preferred Surfacing, Inc. v. Gwinnett Bank & Trust Co., 400 F.Supp 280 (N.D. Ga. 1975).

Additionally, the defendant omits at least one important fact evident to this court upon inspection of the bankruptcy records. The underlying bankruptcy matter (87-1851) was not merely dismissed; it was dismissed pursuant to the stipulation for withdrawal of bankruptcy petition on behalf of G. Woods

THE UNIVERSITY OF CHICAGO

THE DIVISION OF THE PHYSICAL SCIENCES

THE DEPARTMENT OF CHEMISTRY

THE LABORATORY OF PHYSICAL CHEMISTRY

THE DIVISION OF CHEMISTRY

THE DEPARTMENT OF CHEMISTRY

THE LABORATORY OF PHYSICAL CHEMISTRY

THE DIVISION OF CHEMISTRY

THE DEPARTMENT OF CHEMISTRY

THE LABORATORY OF PHYSICAL CHEMISTRY

THE DIVISION OF CHEMISTRY

THE DEPARTMENT OF CHEMISTRY

THE LABORATORY OF PHYSICAL CHEMISTRY

THE DIVISION OF CHEMISTRY

THE DEPARTMENT OF CHEMISTRY

THE LABORATORY OF PHYSICAL CHEMISTRY

THE DIVISION OF CHEMISTRY

THE DEPARTMENT OF CHEMISTRY

THE LABORATORY OF PHYSICAL CHEMISTRY

THE DIVISION OF CHEMISTRY

THE DEPARTMENT OF CHEMISTRY

THE LABORATORY OF PHYSICAL CHEMISTRY

THE DIVISION OF CHEMISTRY

THE DEPARTMENT OF CHEMISTRY

THE LABORATORY OF PHYSICAL CHEMISTRY

THE DIVISION OF CHEMISTRY



dated November 30, 1987. It would certainly, in the least, be inequitable for this court to allow any party to attempt to defeat the provisions of a preliminary injunction and avoid contempt by stipulation to a dismissal of another matter.

This court was not notified that the parties stipulated to the withdrawal of the related bankruptcy matter. It is the belief of this court that the parties may have consented to the withdrawal of the underlying bankruptcy matter illegally and may have perpetrated fraud on this court by failure to notify this court of its intention when all parties had actual knowledge that this court had taken jurisdiction of the adversary matter relating to the bankruptcy.

When this court accepted this case and acted in the issuance of a

Continued from page 30.

The first item is a list of the names of the

persons who were present at the meeting of the

committee on the 10th of January, 1891.

The second item is a list of the names of the

persons who were present at the meeting of the

committee on the 11th of January, 1891.

The third item is a list of the names of the

persons who were present at the meeting of the

committee on the 12th of January, 1891.

The fourth item is a list of the names of the

persons who were present at the meeting of the

committee on the 13th of January, 1891.

The fifth item is a list of the names of the

persons who were present at the meeting of the

committee on the 14th of January, 1891.

The sixth item is a list of the names of the

persons who were present at the meeting of the

committee on the 15th of January, 1891.

The seventh item is a list of the names of the

persons who were present at the meeting of the

committee on the 16th of January, 1891.

The eighth item is a list of the names of the

persons who were present at the meeting of the

committee on the 17th of January, 1891.

temporary restraining order, it did so also as a court of equity. With the aid of the parties, the temporary restraining order was eventually converted into a preliminary injunction, and thereafter, on October 1, 1988 into a permanent injunction. Under these circumstances, this court acted within the jurisdiction granted in bankruptcy statutes because the jurisdiction did not supplant the statute providing that the district court of all civil actions arising under the laws of the United States, but merely supplemented that statute; therefore, the statute conferring upon the district court original jurisdiction of all civil actions arising under the laws of the United States provides an additional, independent basis for federal district court's jurisdiction in bankruptcy

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

the first of the month of January 1880

cases. A general order revesting original bankruptcy jurisdiction in the district court, as was done in this case, vest jurisdiction in the district judges as district judges. (emphasis added.)

UNR Industries, Inc., 725 F.2d 1111 (Ill. 1984). In any event, even if this action has been precipitously processed before an uninformed member of the bankruptcy court as did occur, the dismissal of the bankruptcy case does not mandate the dismissal of all pending adversary proceedings. Stardust Inn, Inc. v. Doshi, 70 B.R. 888 (Bkrtcy. E.D. Pa. 1987). Further, even if the dismissal as averred exists as indicated in the docket of the bankruptcy proceeding, it would matter little because the jurisdiction granted to the bankruptcy court is broad and nothing in the statute governing jurisdiction of the bankruptcy court



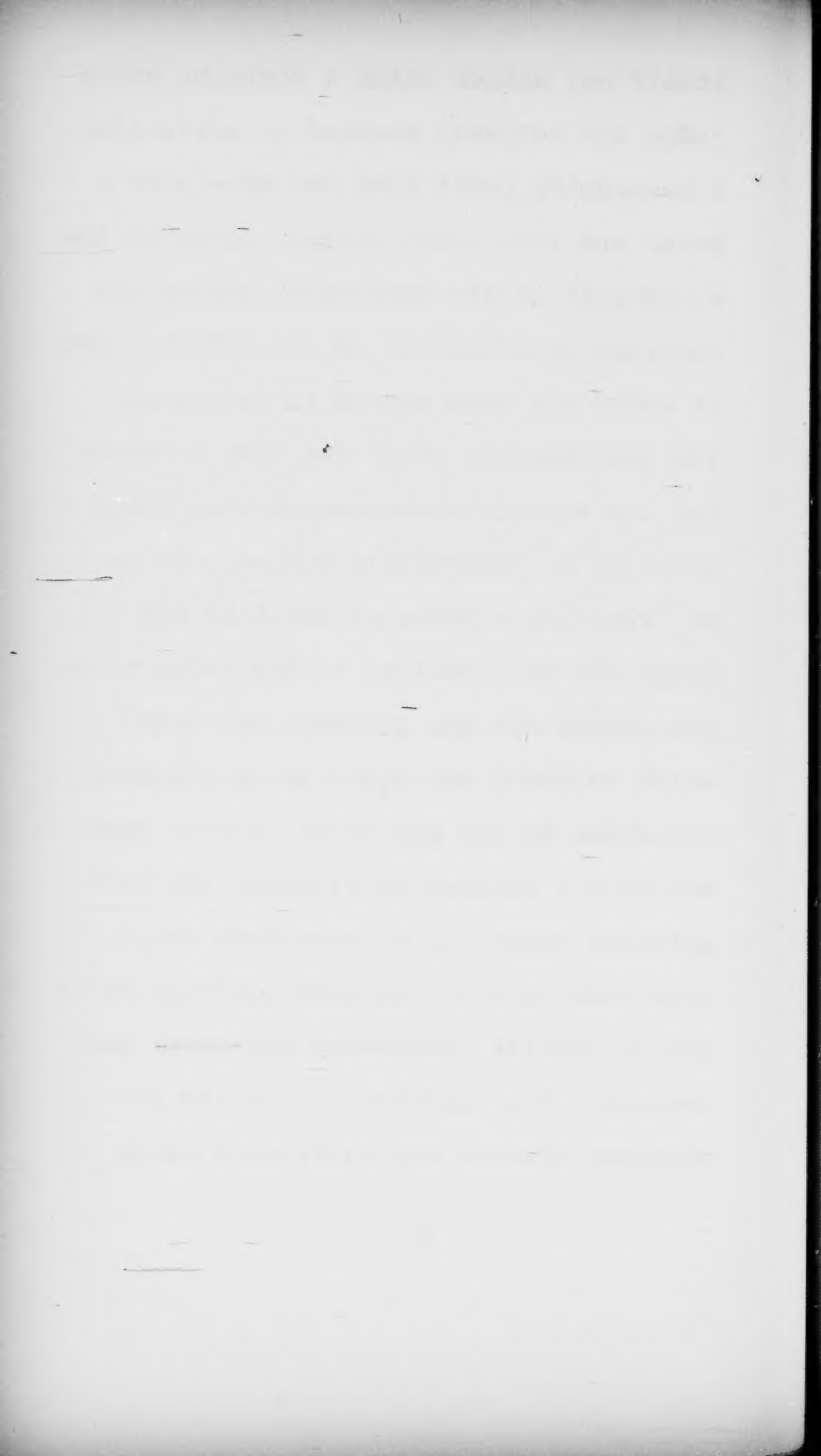
prohibits continuance of jurisdiction over an adversary proceeding, which arose in or was related to a bankruptcy case, following dismissal of the underlying bankruptcy case. In re Pocklington, 21 B.R. 199 (Bkrtcy. S.D. Cal 1982). The defendants by their motion to dismiss attempt to sidetrack this case.

If the bankruptcy judge who signed the dismissal order had been fully informed and had known that the district court had transferred and removed to that court the adversary proceeding involving the injunctive processes and hearings and the work and time that the district court had expended, it is doubtful that the judge would have allowed withdrawal of the bankruptcy case itself. Whether he did or did not have knowledge, the bankruptcy judge did not have jurisdiction to overrule or take over





itself any matter which a district court judge was actively engaged in performing. A bankruptcy court does not have such a power and this court neither approved the withdrawal of the bankruptcy action nor received notification of its removal, and it would not have agreed to relinquish its jurisdiction after the time involved and the serious consequences that could occur by an unthinkable action. To do so, would be a waste of the time and money for all involved in the injunctive proceeding and the contempt hearings which followed and would be an enormous injustice to the plaintiff in this case and to all related individuals who have suffered immensely because they would have been left in the same position as if the injunctive proceeding had never been brought, The hundreds of worried and helpless divorce and bankruptcy cases



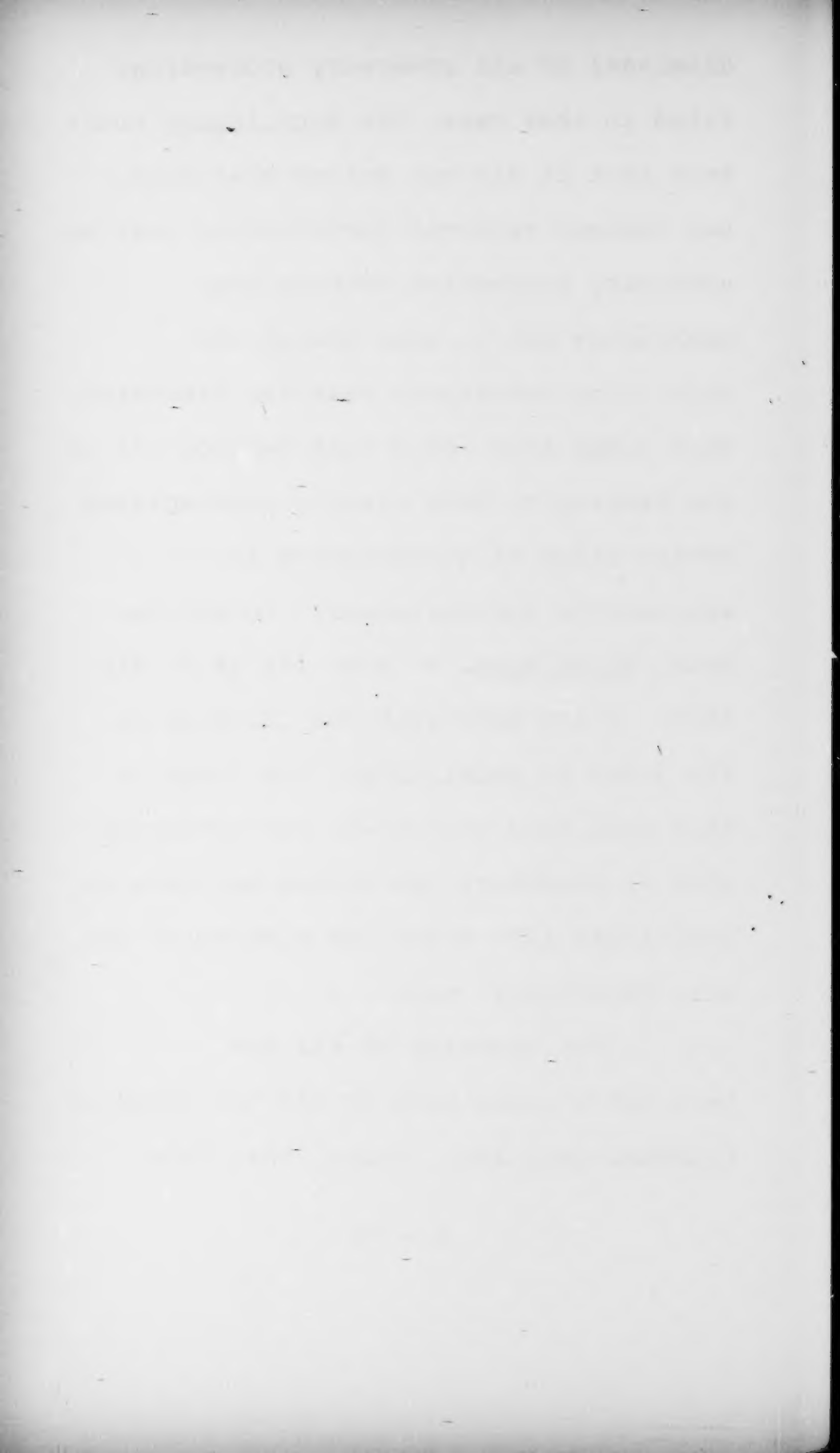
would still be stranded by such an insensitive and preposterous action. Furthermore, it would only open the gates to additional litigation in many ways by many people including that of the plaintiff himself.

Assuming, nevertheless, as a matter of consideration, of which this court does not approve, that the withdrawal of the bankruptcy proceeding on November 30, 1987, in the bankruptcy court ended the dependent action of the adversary matter taken over by this court on October 1, 1987 when it issued a permanent injunction, the defendant would not be helped even by the bankruptcy judges themselves. Even in the most controversial of cases, In re Pocklington, Supra, where a statement was made that as a general rule dismissal of a bankruptcy case results in the



dismissal of all adversary proceedings filed in that case, the Pocklington court said that it did not follow that rule, but instead retained jurisdiction over an adversary proceeding without that bankruptcy court, even though the underlying bankruptcy case was dismissed. That judge also noted that Section 349 of the Bankruptcy Code clearly contemplates continuation of jurisdiction in appropriate circumstances. In another case, In re Rush, 49 B.R. 158 (N.D. Ala. 1985), which held with the thinking of the judge in Pocklington, the judge in this case held that there was authority that an adversary proceeding may have an individual life after the closing of the main bankruptcy case.

The majority of all the bankruptcy cases hold as did the judge in Stardust Inn, Inc., Supra, that "the



court could retain jurisdiction over an adversary proceeding although the main bankruptcy case had been dismissed."

Since this court had informed and made public as a matter of record that it accepted jurisdiction in this adversary proceeding, that it continues to act in its regard and expended a large amount of court time and research time, that it had two hearings on it and did not reject or deny its jurisdiction, but continues to perform arduously the burden which it has assumed in this injunctive proceeding as an adversary bankruptcy matter, I cannot permit it to be said that an uninformed bankruptcy judge could possibly deprive it of its jurisdiction. Accordingly, this third basis for the dismissal of this action before this court is completely without merit.





For all of the aforementioned reasons, the motion of the defendants will be denied.

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF THE HISTORY OF ARTS AND ARCHITECTURE

OFFICE OF THE CURATOR

1100 EAST 58TH STREET, CHICAGO, ILL. 60637

TEL. 773-936-5000

FAX 773-936-5001

WWW.HA.UCHICAGO.EDU

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

CHICAGO, ILL. 60637

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDAK, )  
 )  
Plaintiff, )  
 )

vs. CIVIL ACTION NO. 87-1999

ROBERT WOODS, MICHAEL S. )  
GEISLER, and RICHARD )  
O'BRIAN )  
Defendants. )

OPINION

ROSENBERG, DISTRICT JUDGE

This action came to me as acting Miscellaneous judge while the members of the District Court and Bankruptcy Court attended a judicial conference in Philadelphia, It came as an adversary proceeding related to a bankruptcy case which had been initiated on July 15, 1987 by Yaier Y. Lehrer, Esq. on behalf of creditors, against Joseph E. Hudak, an attorney.



When I saw that possible harm was being done not only to the plaintiff, but to a multitude of innocent clients who had paid money to have bankruptcy and divorce cases filed and processed, and with possible disrepute and harm to the legal profession and the courts, I accepted the matter as a district court action with equitable concerns and powers and accepted jurisdiction of the case for the purpose of seeing that public justice was done.

The instant determination which I am called upon to adjudicate and enforce is required because of a series of motions, two emotion-filled and unmethodical hearings, the first of which produced an unproductive set of stipulations between the parties which enabled me to arrive at an injunctive Order of Court, the basis for the charges



of contempt and the foundation for this court's present jurisdiction and authoritative actions.

This instant matter is presently before me for civil contempt, after the injunctive order dated october 1, 1987 and after a series of petitions or motions by the plaintiff complaining of violations of the injunctive Order, and then after a hearing thereon for the purpose of determining whether the enjoined parties were recalcitrant and in contempt of the Order of Court dated October 1, 1987.

During the first hearing, partial evidence was presented, but the parties through their counsel stipulated to an accepted injunction. Some skirmish and delay of time was caused by one of the attorneys for Woods, but eventually through in-chamber conferences and

of confidence, and the foundation for the

order's future success.

It is a great pleasure

to have been able to assist in

the work of the Order, and

to have been able to

contribute to the

work of the Order, and

to have been able to

contribute to the

work of the Order, and

to have been able to

contribute to the

work of the Order, and

to have been able to

contribute to the

work of the Order, and

to have been able to

contribute to the

work of the Order, and

to have been able to

contribute to the

work of the Order, and

to have been able to

contribute to the



outside agreements, the parties submitted a proposed stipulation for approval by this court. When eventually the matter was presented to me, I approved the September 30, 1987, stipulation with the clarifications by Order of Court dated October 1, 1987.

The Injunctive Order appeared to quiet the scene and to conciliate the parties by their own peacemaking. On March 31, 1988 and again on April 8, 1988, the plaintiff filed motions for contempt of court for the failure of the defendants and others to obey the stipulated and injunctive command of October 1, 1987. The petition was filed to compel recalcitrant prime parties and others to cease and desist their harmful action against the plaintiff, Joseph E. Hudak, his wife and children and to stop them from interfering with his business



and personal life, by enforcing the performance of the undertakings to which they agreed in the stipulated series of understandings incorporated into the Injunctive Order of Court dated October 1, 1987, and to stop all harassment and free the plaintiff and others related to him from punishing and harmful annoyances.

All litigation with few exceptions can ever be said to be devoid of some sort of emotion and antipathy between the parties or witnesses. However, the character of this case requires more details than does the ordinary action, because of the almost dramatic theme which it portrays and projects. Accordingly, the required recital of details seems to make this opinion over-long. It should, however, present a panoramic understanding upon



which credibility and factfinding have been more reliably ascertained.

The plaintiff Hudak did not originally seek damages, but only that the defendants perform civilly in accordance with their original undertakings. This instant matter is now before me not for the purpose of vindicating the court's authority. G & C Merriam Co. v. Webster Dictionary Co., Inc., 639 F.2d 29 (1st Cir. 1980). Civil contempt sanctions are remedial. Id. The parties themselves stipulated to the injunction, and the purpose of civil contempt is to compel obedience to enforce the rights of parties to the action. In re Irving, 600 F.2d 1027 (2nd Cir. 1979), cert. den., DiLapi v. Irving, 444 U.S. 866 (1979). There are two forms of civil contempt sanctions. The first is a coercive contempt sanction

which are the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

the only ones that are

which looks to the future and is designed to aid the plaintiff by bringing a defiant party into compliance with a court order. The second is a compensatory sanction which seeks to compensate the plaintiff through payment of money for damages cause by past acts of disobedience. U.S. v. Basil Inv. Corp., 528 F. Supp 1225 (Ed PA 1981). It is clear that it is the first form of civil contempt with which the plaintiff is concerned, but this court must also determine, not that the plaintiff be compensated, but that others be protected compensatorily, if only in procuring the results contemplated by the injunctive Order of Court.

The plaintiff in this case, Joseph E. Hudak, newly admitted to the Bar, was immediately drawn into an association with one Robert Woods, one of





the defendants. While the events in the case first showed an unsecured "loan" of \$30,000 or \$50,000 to Hudak by Woods, it later appears that the sum total was actually \$80,000. The purpose of the loan was to establish an advertising attorneys' office for procuring divorce and bankruptcy cases on a high-volume scale. The advertising was successful, not only in Allegheny County, but in other counties of the Commonwealth, with the filing of divorce cases in Cameron County.

Approximately 1,000 cases were received by the Hudak law association and Hudak hired an attorney, one Michael S. Geisler, a defendant in this case, and another individual, William C. Bartley, was named as the office manager. Previously, Bartley had resigned from the bar of Pennsylvania because of his



involvement in a felony. In the association with Hudak in The Bigelow, Woods had an office in the Hudak law association and personally and actively engaged in a mortgage business of some kind, in the Hudak set-up. Woods also had total access to all records of the office and was obviously a meaningful participant in the newly created law office in Hudak's name. It is not known exactly how active Woods was from the evidence before me, but sufficient evidence that he was active kept coming in piecemeal.

The business, however did go well because the number of cases which came in was beyond the capacity of the members of the organization. Hudak, himself, was stated to be the one in control, but it is apparent that he was a newly admitted attorney with no experience. He knew



very little about law and legal procedure, especially, in divorce procedure and bankruptcy.

By Geisler's own testimony, it appears that he was the one who knew more about procedure because he had carried on his own business before coming into the Hudak organization and continued with his own business while in the Hudak organization. However, he participated in a share of the Hudak organizations' proceeds. Geisler was hired on a commission basis and was to receive a base salary of \$375.00 per week, plus a 10% commission of income from all cases (TR of 6-14-88 Hearing, DC #44, p. 234-235). The evidence is clear by his own testimony that he was a personally, money-interested associate in this law combination.

Subscription price, Five Dollars per Annum in Advance.  
Single Copies, Fifteen Cents.

Entered as Second-Class Matter, May 26, 1892.  
Postage Paid at Chicago, Ill.

Acceptance for mailing at Special Rate of Postage provided for in  
Post Office Department Circular No. 1110, March 3, 1909.

Postmaster: Send address changes in this journal to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Copyright, 1919, by The American Medical Association. All rights reserved.

Published by The American Medical Association, 535 North Dearborn Street, Chicago, Ill.

Printed at the Chicago Press and Publishing Company, Chicago, Ill.

Volume 21, No. 19, May 1, 1919.

Editorial and Business Communications: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Editorial Communications: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Subscription Communications: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Advertising Communications: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Reprints: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Change of Address: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Notice to Contributors: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Notice to Subscribers: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Notice to Advertisers: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Notice to Readers: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Notice to Correspondents: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Notice to Contributors: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Notice to Subscribers: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Notice to Advertisers: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Notice to Readers: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

Notice to Correspondents: Address to THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill.

For approximately one year, the relationship between Woods and Hudak was unassailable. Where amity and close business relationships existed, problems began and Hudak threw Woods out of their shared offices. As a result, Woods became so displeased that in August, 1987, he started a systematic avalanche upon Hudak's activities intended to destroy Hudak, his law business, his clients and all who associated with him; and Woods even began to inflict suffering and obstructions to his own daughter and grandchildren. At first, Woods withdrew files of cases by the aid of Geisler and others. Woods began a campaign of communicating with the clients concerning the disreputability and criminality of Hudak, and creating dissatisfactions by clients, creditors and business associates, and causing sufficient





provocations in them to make grievance charges to the Pennsylvania Supreme Court's Grievance Commission, as well, on a wholesale scale.

Woods either directly or indirectly made charges to the Disciplinary Board in a series of complaints. In essence, these were created personally and by the instigation of Woods through the actions of others to cause a collapse of the Hudak law firm and of the cases taken in by Hudak, Woods and Geisler, while they were in association. Edward Burkhardt, an assistant disciplinary counsel at the Disciplinary Board, was invoked by the defendants or some of them to act as their investigator by furnishing him with targeted information regarding Hudak's personal and business activities and spurring Burkhardt to the point where he

in connection with the...

...of the...

...of the...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

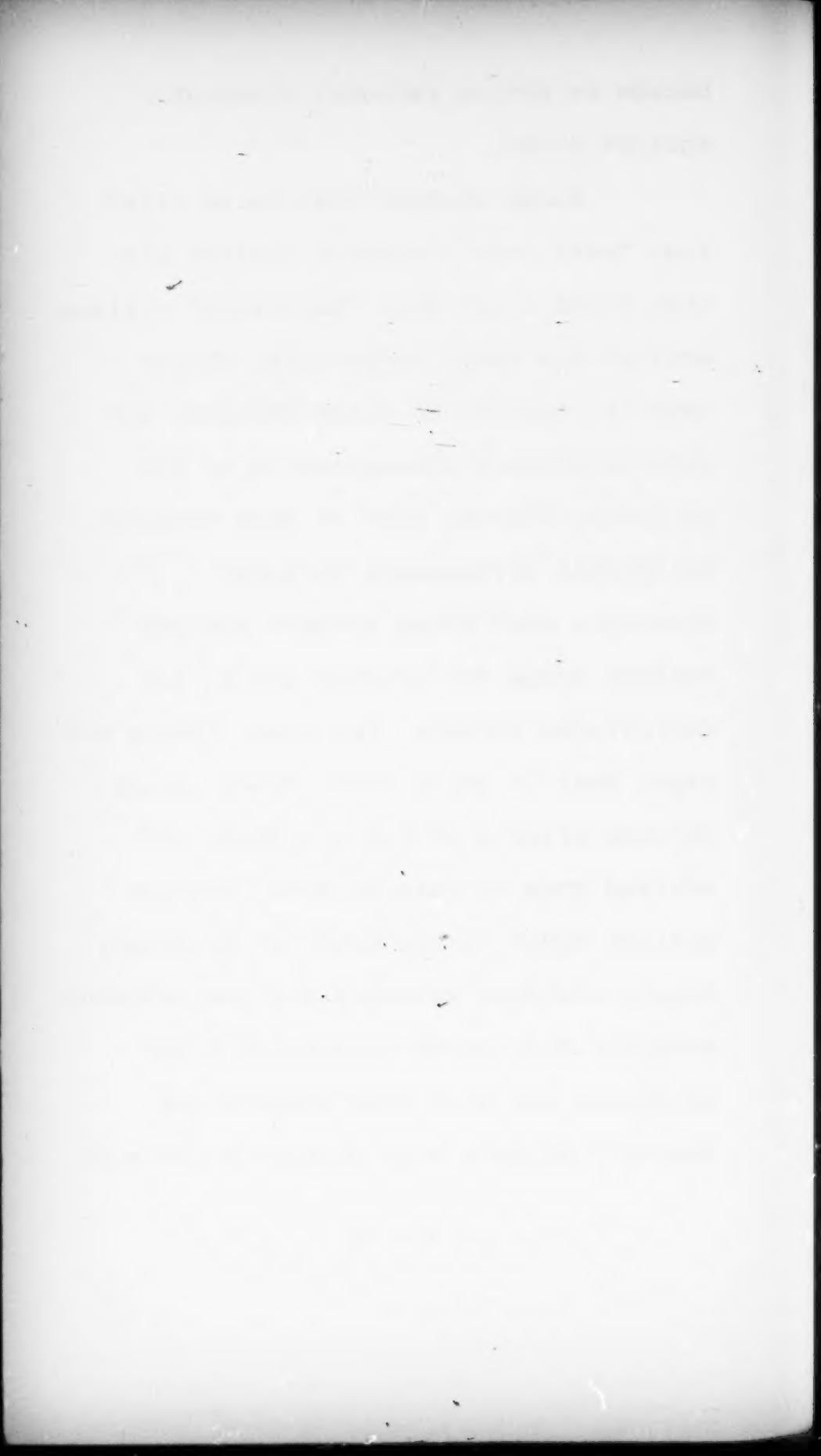
...

...

...

became an acting personal prosecutor against Hudak.

Hudak charged that Woods filed four "meritless" lawsuits against him; that Woods filed four "meritless" actions against his then, to-be-wife, Sharon Lavelle; that Woods filed charges, and made telephonic communication to his daughter, Sharon; that he made constant telephonic harassments to Hudak directly; that Woods brought charges against Hudak for drunken stupor and terroristic threats, felonies, thefts and rape; that in early 1988, Woods called various clients of the plaintiff and advised them to make criminal charges against Hudak before both the Allegheny County District Attorney and the Attorney General; that Woods telephoned known creditors and gave them Hudak's and Sharon's private home telephone numbers



and urged them to telephone and write Hudak at Sharon's home where they received numerous communications; that Woods provided creditors with the telephone number of Anthony Guida, an attorney at Buchanan Ingersoll, who was working on a case against Hudak and advised creditors to make contact with Guida regarding Hudak; that Woods and his agents or associates telephoned creditors to make calls to Robert O. Lampl who was the attorney for Hudak; that Woods continued to contact creditors informing them of telephone numbers for the office and the home of Hudak to have them make telephonic approaches; that on several occasions, Woods spat in Hudak's face, once across counsel table in a magistrate's office and once in the corridor of the Common Pleas court; that Woods procured his employee, Richard



O'Brian to make telephone calls to Hudak and pretend to be clients making the telephone calls; that both Woods and O'Brian called Hudak on the telephone and shouted obscenities at him on approximately 20 occasions from December, 1987 to January, 1988; that in February, 1988, Woods' employee O'Brian, followed Hudak in the Common Pleas' corridor behind him and muttered obscenities as he followed him; that at times during this period, Woods when he saw Hudak would follow him and yell obscenities drawing the attention of those surrounding Hudak; that Woods interfered with Sharon's domestic life by telephoning her grandmother who is Woods' mother-in-law to stop her from babysitting Sharon's children; that Woods threatened the younger sister of Sharon with the withdrawal of funds to attend school if



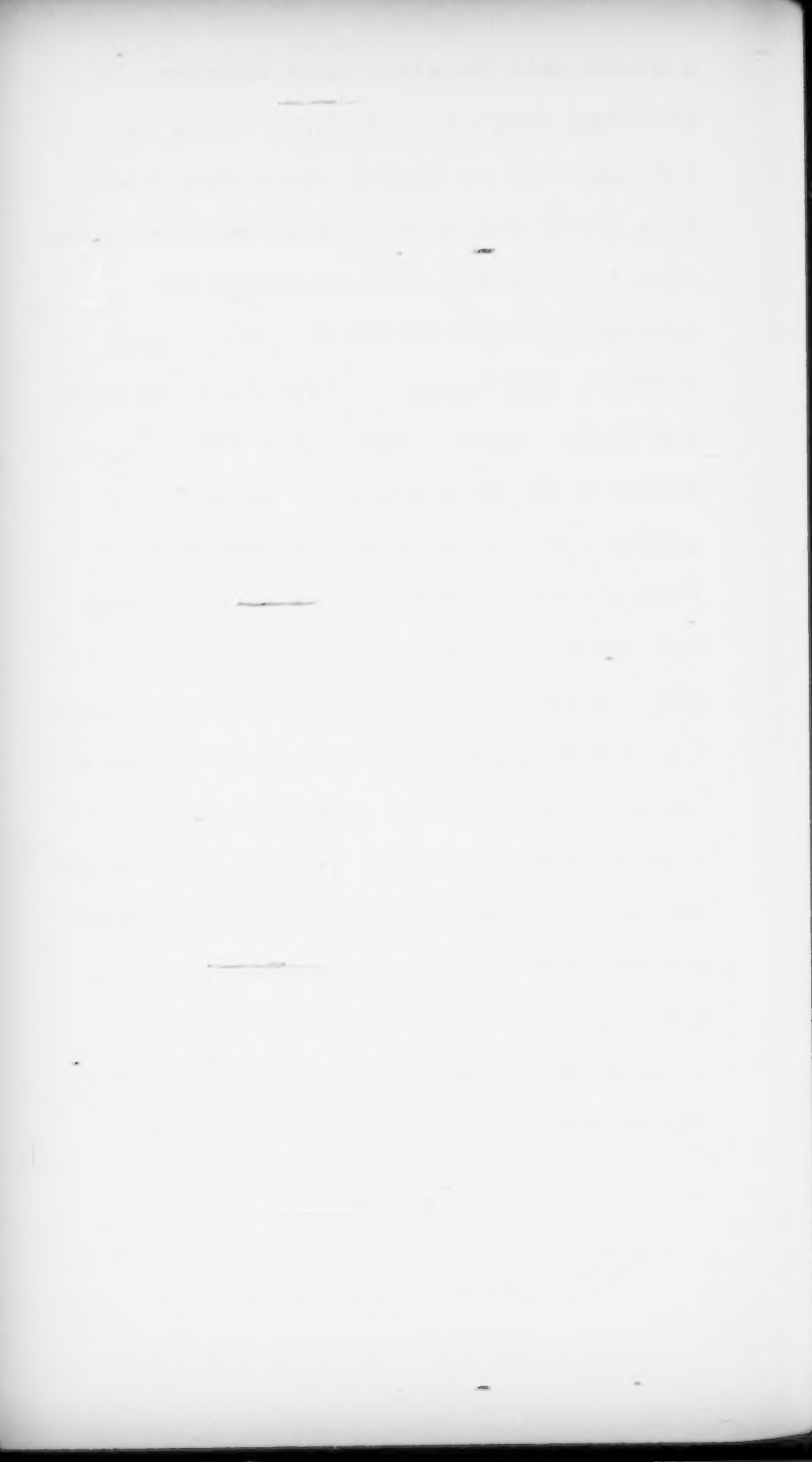


she associated with Sharon; that Woods also disowned another sister because she associated with Hudak; that Woods communicated with the headmaster at the school where Sharon's children's attended and made vile, disparaging remarks against the children's mother, Sharon Lavelle, in November and December, 1987, and that Woods caused O'Brian to shadow Sharon and her young children.

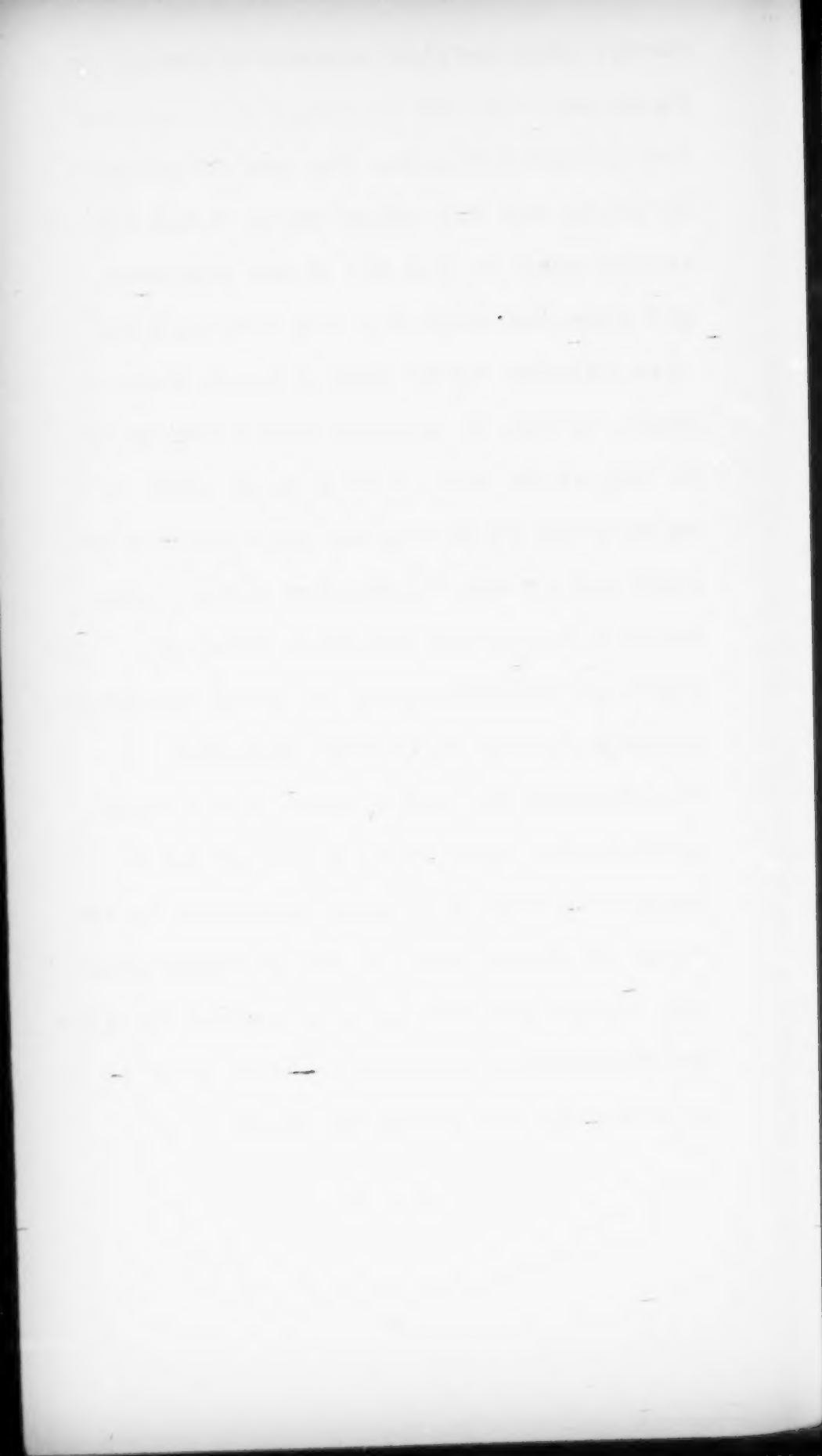
The plaintiff charges Michael S. Geisler with aiding Woods in filing false and baseless disciplinary charges; that he represented Woods in actions against Hudak in the Pennsylvania Superior and Supreme Courts and the United States District Court in the Southern District of New York by submitting documents and evidence which were blatantly false; that Geisler procured fees to which Hudak was entitled for cases which Hudak had



already paid Geisler; that Geisler procured various clients of Hudak and induced them to demand their fees back from Hudak and hire Geisler and pay those fees to Geisler; that in procuring another association of attorneys with himself, the disbarred William C. Bartley and Woods, Woods commenced a new advertising legal association and undercut Hudak to make him unable to function as a lawyer; that Geisler used Burkhardt in combination with Geisler to procure various witch-hunts against Hudak for the purpose of discrediting him as a lawyer; that in this combination of Geisler and Burkhardt, Geisler fabricated certain information which Burkhardt used against Hudak; that he expended certain Hudak trust funds for personal use instead of for their original use of paying costs for continuing the Hudak

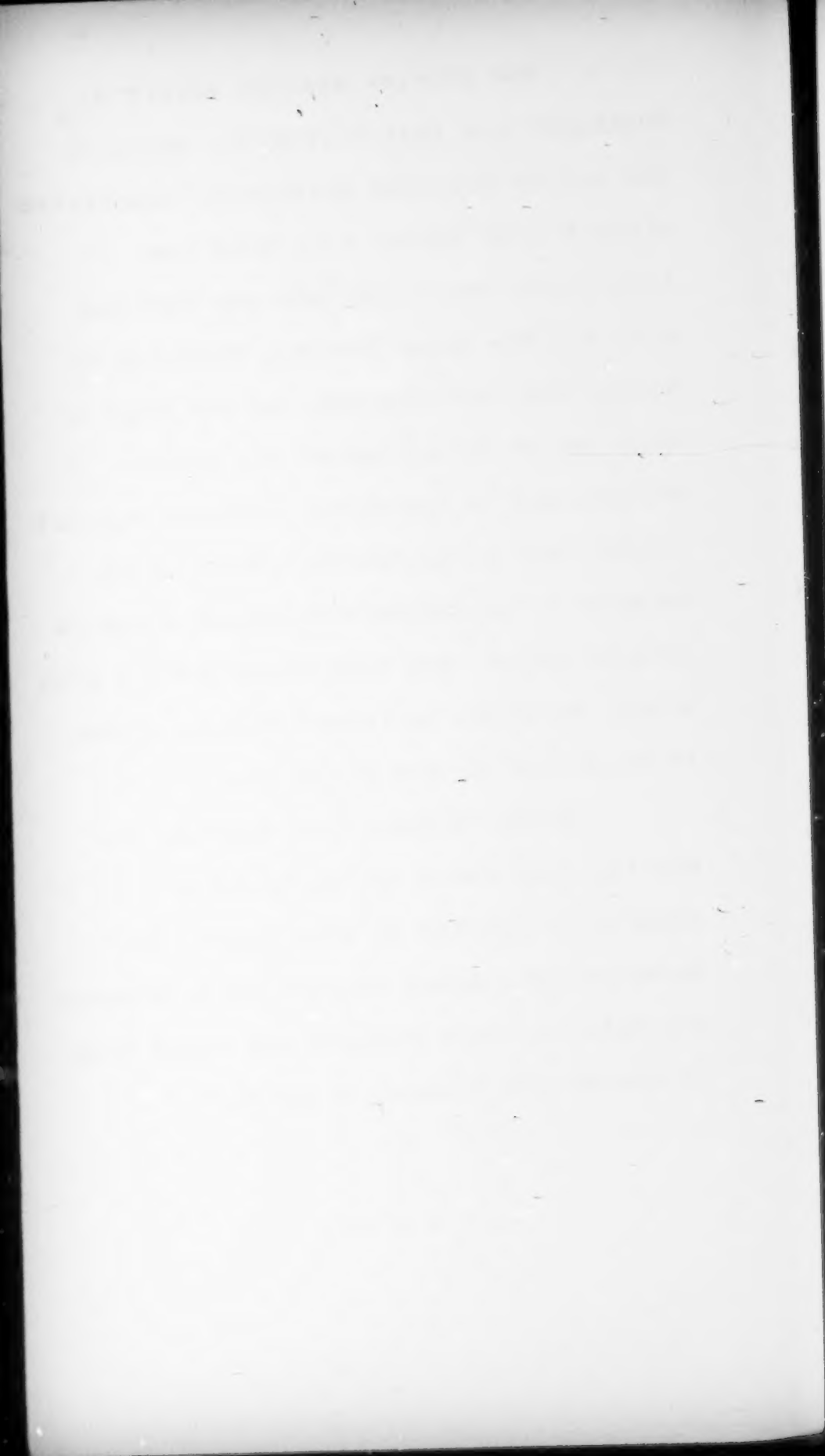


cases; that Geisler misused a number of funds paid to him by Hudak pursuant to the injunctive order for use of payment of costs for the cases which Hudak had turned over to him for Hudak business, and expended this for his own business; that Geisler never kept a trust fund in which to pay or account for funds given to him as he should have done, and especially in making monthly reports as required by the injunctive Order; that Woods through his attorney filed a petition in bankruptcy in order to avoid responsibility in paying incurred obligations for which Hudak had turned over funds; that Geisler failed to prosecute over 300 cases pursuant to the Order of Court and for which Hudak paid him costs; and the Geisler failed to give Hudak progress reports of work done as provided by the Order of Court.



The charges against Edward A. Burkhardt are that Burkhardt, while he was not an original defendant, associated himself with Woods, knew what the injunction restrained and was familiar with all the money matters relating to Hudak, but nevertheless, he was used by Woods as an investigator for state matters and to fabricate evidence against Hudak; that he worked in concert with Geisler in procuring fabricated evidence against Hudak; and that while acting with Woods, Burkhardt performed various times in violation of the injunction.

Hudak charges that William C. Bartley knew about the injunctive conditions enacted by this court, but nevertheless, acted in concert with Woods and Geisler, as a contact and aided them in violations charged by Hudak.





Yaier Y. Lehrer, as a defendant attorney, is charged by Hudak as a conspirator with Woods and others rather than just acting as counsel for Woods in filing barratrous actions and other matters to harass Hudak; and that he also acted to aid Woods in foreclosing coercively on Sharon's home on Beechwood Boulevard in Pittsburgh.

The plaintiff charges that John M. Silvestri, one of the defense attorneys, had full notice of this court's Order of Court in the injunctive proceeding and was Woods' attorney in filing barratrous lawsuits including a replevin; that he wrote letters for Woods who made them available to the Disciplinary Board, the District Attorney's office and his daughter, Sharon; and that in the replevin proceedings, he threatened former a Hudak



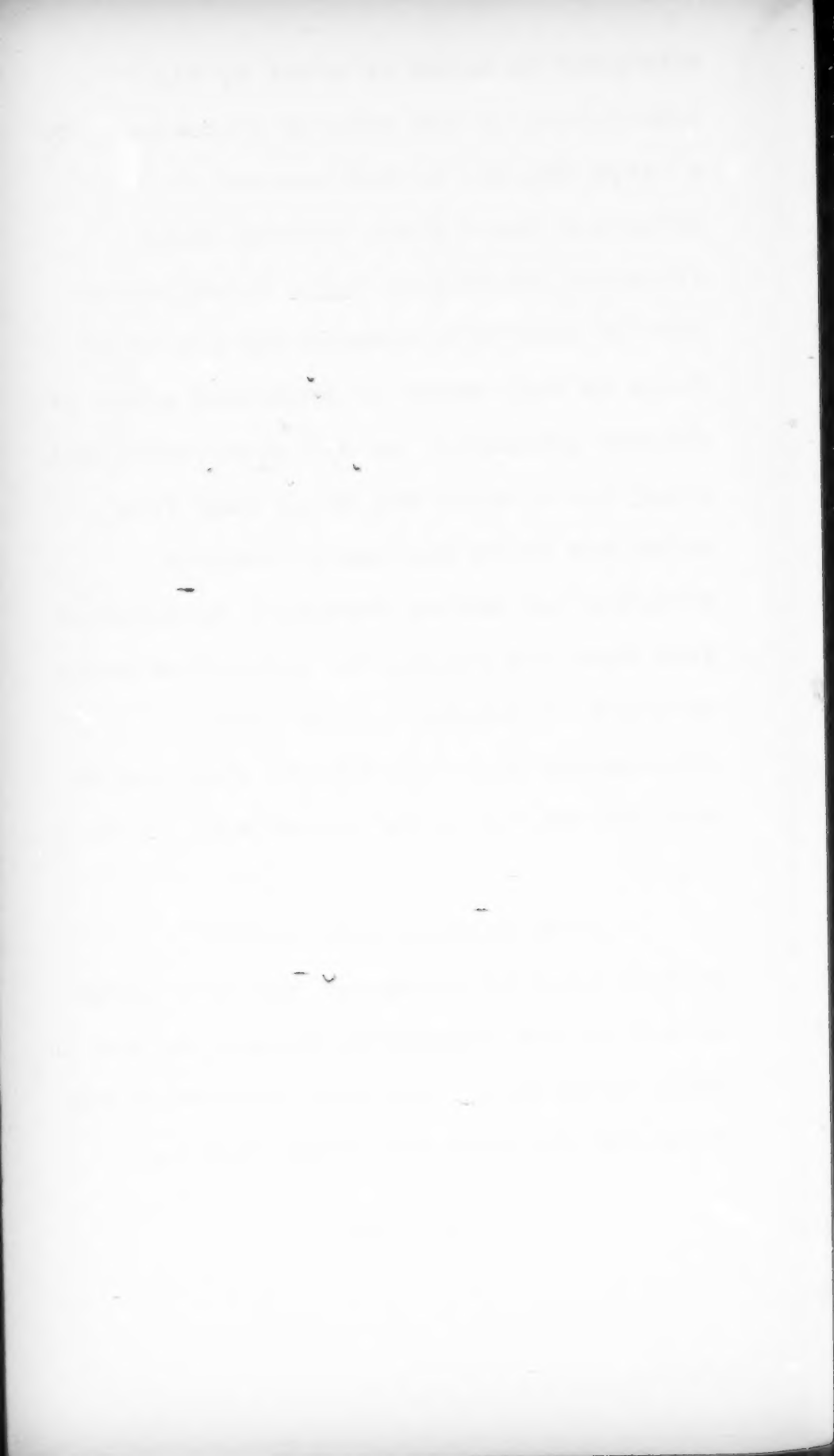
secretary with jail to coerce her into testifying.

This is a brief summation of the charges contained in the Motion for Contempt and is not presented here for the purpose of assuming they are factual since only some were proven. Rather, they are presented here for the purpose of showing the scenic and emotional background which prevailed during a period of time beginning in August, 1987 and still prevailing at the present time. With the large number of averments by the plaintiff in the pleadings and the wide array of charges, to prove them all would require a host of witnesses and exhibits. All that this court required was to have sufficient evidence to convince it that credible evidence has been presented to make out a case of the plaintiff's right to a remedy. The plaintiff here



attempted to bring in proof by his questioning of the adverse witnesses. To a large degree, he did succeed in producing basic proof through these witnesses because of their unrestrained show of hostility towards the plaintiff. While he fell short of producing proof of all his averments, he did show sufficient proof for a valid and solid base from which the court has ample credible evidence for making necessary findings of fact that the stipulated injunctive order of court of October 1, 1987 was disregarded and violated, by whom and to what extent, as to be in contempt of this court.

Some charges were proven evidentially by witnesses and to a large extent by the defendants themselves and their witnesses. Uncommon attraction was drawn by the defendant Woods when he

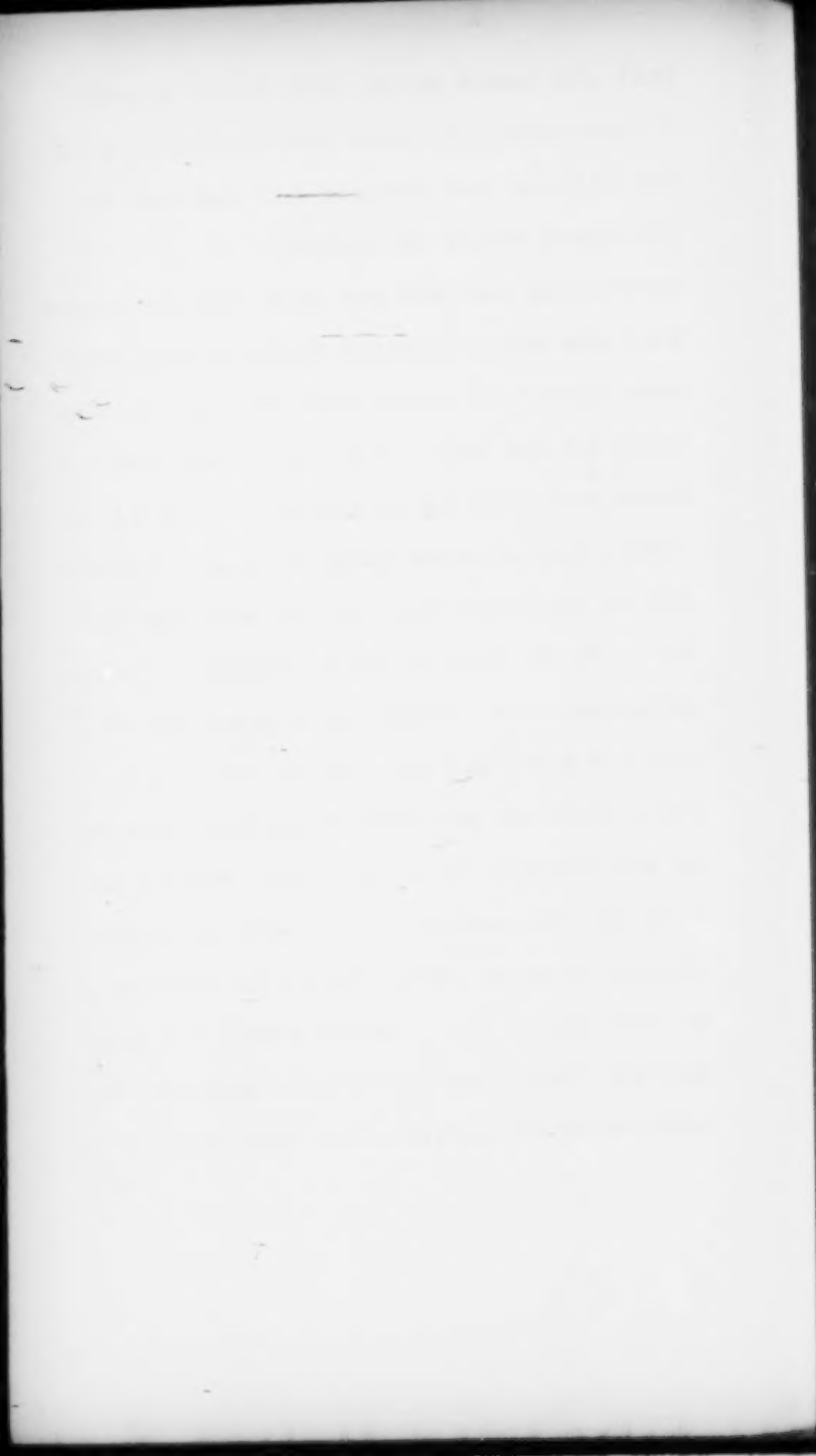


testified loudly and volumously in the injunction hearing. He did not, however, testify or deny any of the evidentiary statements made by Hudak or the other witnesses since he did not testify at all at the second contempt hearing, although he was highly observable by his unsettled actions in the courtroom, hopping from chair to chair at the rear of the counsel table and to the rear of the courtroom when any of his attorneys move back to talk to someone. His facial contortions were undoubtedly intended to show his feelings and he did not hesitate to make at the counsel table audible vocal retorts reflecting his thoughts or feelings. On one occurrence, at the contempt hearing, while Woods' wife, Geraldine Woods, was on the stand and Hudak was questioning her, my law clerk jumped to the bench and exclaimed





that she heard Woods call Hudak a goof. I immediately stopped the questioning of the witness and excused her and had my law clerk sworn to testify. I questioned her and she made the statement that she had overheard Woods direct the name "goof" at Hudak when he was in the front of the bar. She testified that Woods was looking in the direction of Hudak, and uttered only one word: "Goof" (TR of 06-16-88 Hearing, DC #34, pp 89-93). Woods made no sworn denial. So, I permitted his counsel to contradict or correct the testimony of my law clerk. Their defense was that Woods was talking to his counsel only, and any remarks he made at the counsel table were only for counsel's ears (TR of 06-16-88 Hearing, DC #34, pp 89-93). Woods made no sworn denial. So, I permitted his counsel to contradict or correct the testimony of my



law clerk. Their defense was that Woods was talking to his counsel only, and any remarks he made at the counsel table were only for counsel's ears (TR of 06-16-88 Hearing, DC #35, pp 2-9). The unfortunate thing was that the remark did not go only to counsel's ears, but it went farther so that his remark from the back of the counsel table went to the bar of the court. It was heard by my alert law clerk. I have no hesitancy in giving her full credibility for her testimony. Prior to this, Woods was specifically warned that his behavior was unacceptable (TR of 6-9-88 Hearing, DC #36, p. 74-78).

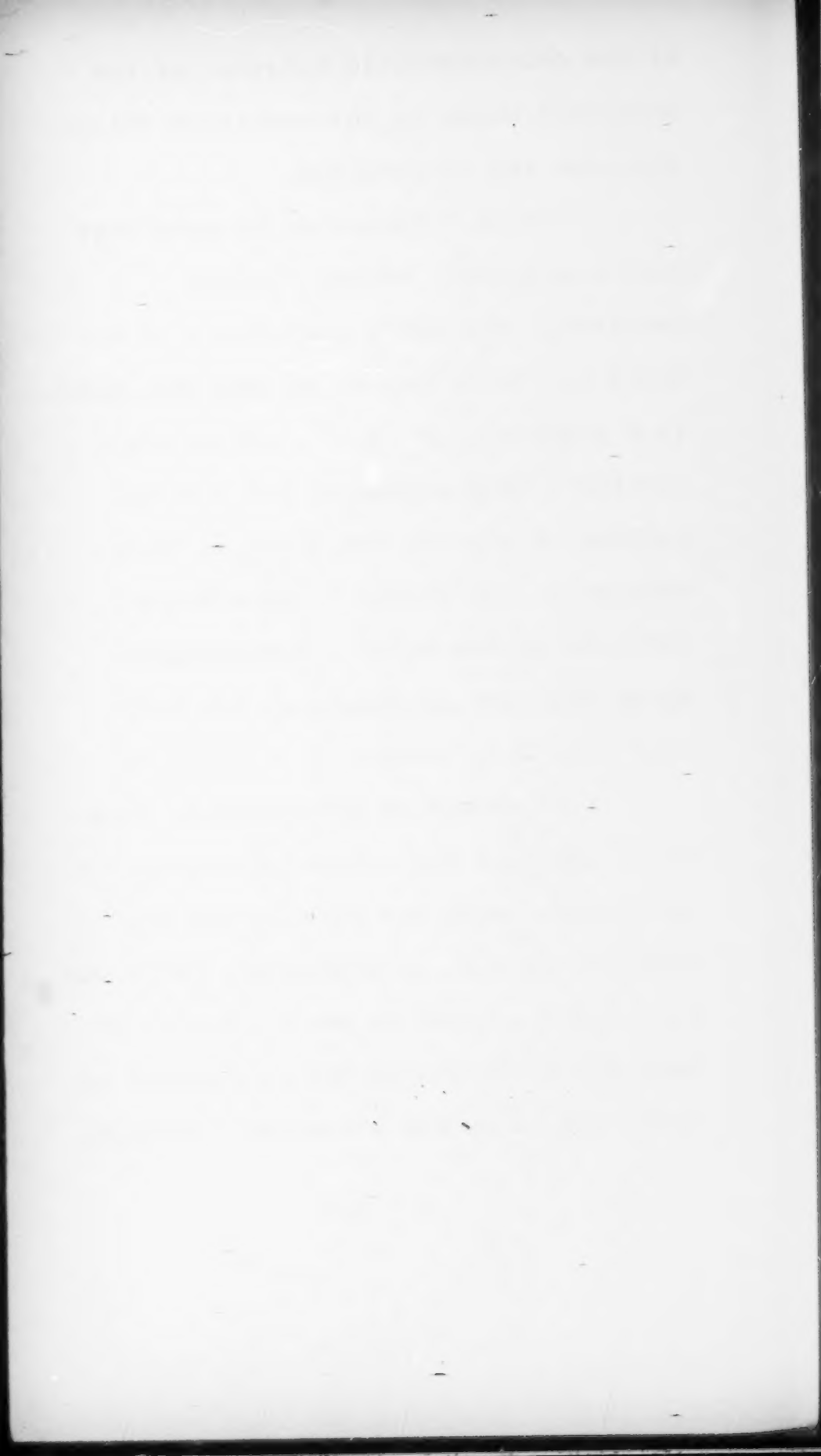
Thereupon, I held Woods in civil contempt of court and stated that the imposition of sanctions would be dealt with at a later time. The case resumed after that. This incident is recited here only for the purpose of showing some



of the characteristic behavior of the defendant Woods in the courtroom while the case was in progress.

It is interesting to note that Wood's attorney, Lehrer, in his testimony, did admit that "well, I have heard Mr. Woods say to me that Mr. Hudak is a pigface" (Id. at 6). This court considers this evidence, not for the purpose of showing the truth of this utterance, but rather to show Woods' attitude toward Hudak. See Hunter v. Alles Chalmers Corporation, 797 F.2d 1417 (7th Cir. 1986).

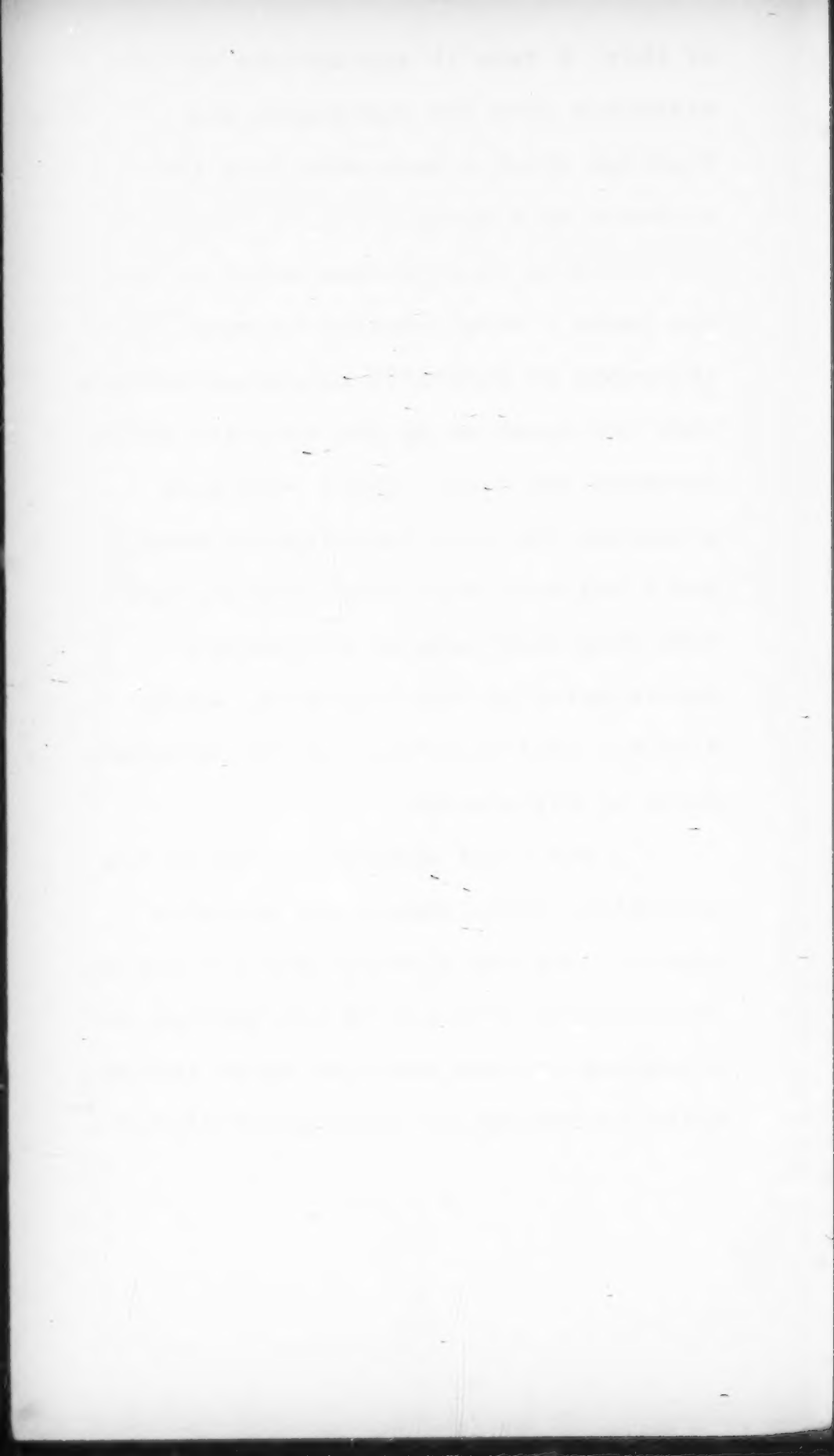
To determine credibility, this court observed all actions occurring during testimony and scrutinized the demeanor of all the witnesses. This was necessary in order to make Findings of Fact about the things which occurred as testified to by the witnesses. Because



of this, I deem it appropriate to elaborate upon the appearance and findings which I have made from the evidence as a whole.

This is once case which in all the years I have presided in many thousands of federally processed matters that intrigued me by the very air which pervaded the case. There were many witnesses who were forthrightly honest and I believed what they recited, but some were knowingly or unknowingly contaminated by the influence, either directly or indirectly, of the defendant Woods or his agents.

The first witness called by the plaintiff, Anita Henry, was gosselly honest. She was a young lady who had no acquaintance with any of the parties or witnesses and was employed as an inside sales telemarketing representative for a

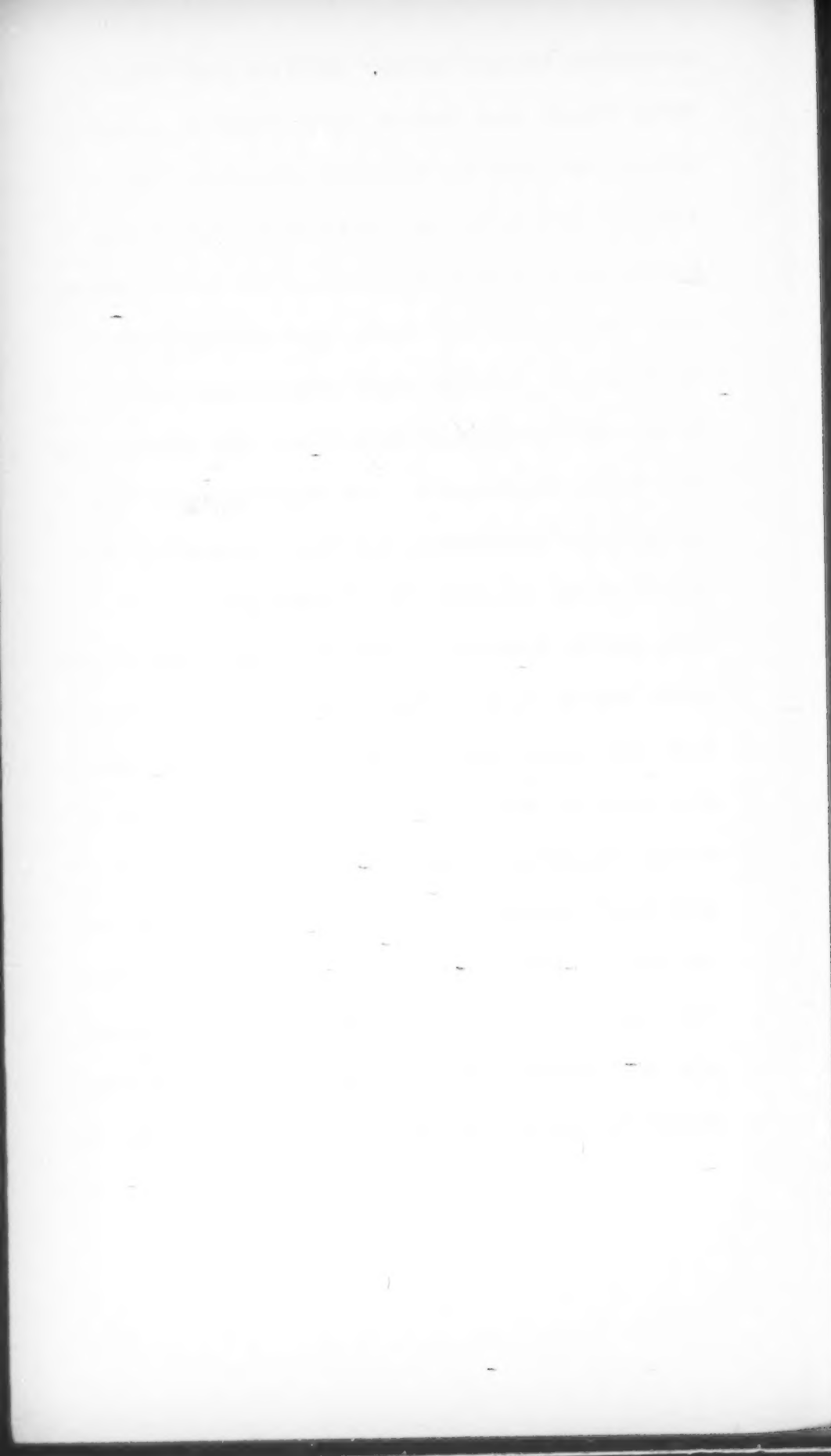




management consulting company, GMW Technologies, Suite 200, Lawyers Building. Her testimony was simple and to the point. She testified that she happened to be in the closed, moving upward elevator going to work when Woods physically attacked Hudak without cause. Anita Henry testified that she was employed in an office located in the Lawyers Building on Forbes Avenue in Pittsburgh, Pennsylvania. On April 7, 1987, she stepped into the elevator where Hudak was already present. She said that Woods also came onto the elevator and initially she assumed they knew each other since it seemed that Woods was joking around with Hudak when he grabbed Hudak's nose. Prior to her exiting the elevator on the second floor, she stated that Woods started calling Hudak a rapist. She then stepped off the



elevator to go to her office and that both Woods and Hudak came "barrelling" after her (TR of 6-14-88 Hearing, DC #39, p 22) into her office suite. She asked both Woods and Hudak to leave when they followed her into the suite. At this point, Woods kept insisting that Hudak was a rapist and that she should be aware of this fact. At that point, she asked the secretary to call security and Hudak then called "911" (Police Emergency Number). She further testified that Hudak was pushed into her by Woods and she went through the door, presumably her office door. Henry testified that Woods repeatedly called Hudak a rapist and that Hudak's nose was bleeding as a result of Woods grabbing him by the nose (Id. at 24). The witness testified that she had never seen either Hudak or Woods prior to this incident and she learned of



Hudak's name only because she was there when the police report was made.

Her testimony reaffirmed the volatile nature of the defendant Woods, as this court saw and heard him in action when he volcanically exploded in court at the injunctive hearing on September 21, 1987, while on the witness stand. That was an uncommon demonstration of temper and acrimony towards the plaintiff, Hudak. Examples of what he said in his testimony show how deeply set was his antagonism toward the plaintiff. In answer to a direct question by Hudak, Woods replied, "I told Bonnie you (Hudak) are nuts and I'm afraid for her insanity. And I said, if you don't believe me, ask anyone who's associated with him, except my daughter, that you are, that you are nuts. And you are nuts even making that statement. You're crazier than I thought



that this association hired office help and set up an office with furnishings in The Bigelow building in downtown Pittsburgh;

that due to business differences and inappropriate behavior on the part of Woods, Hudak ousted Woods from the office;

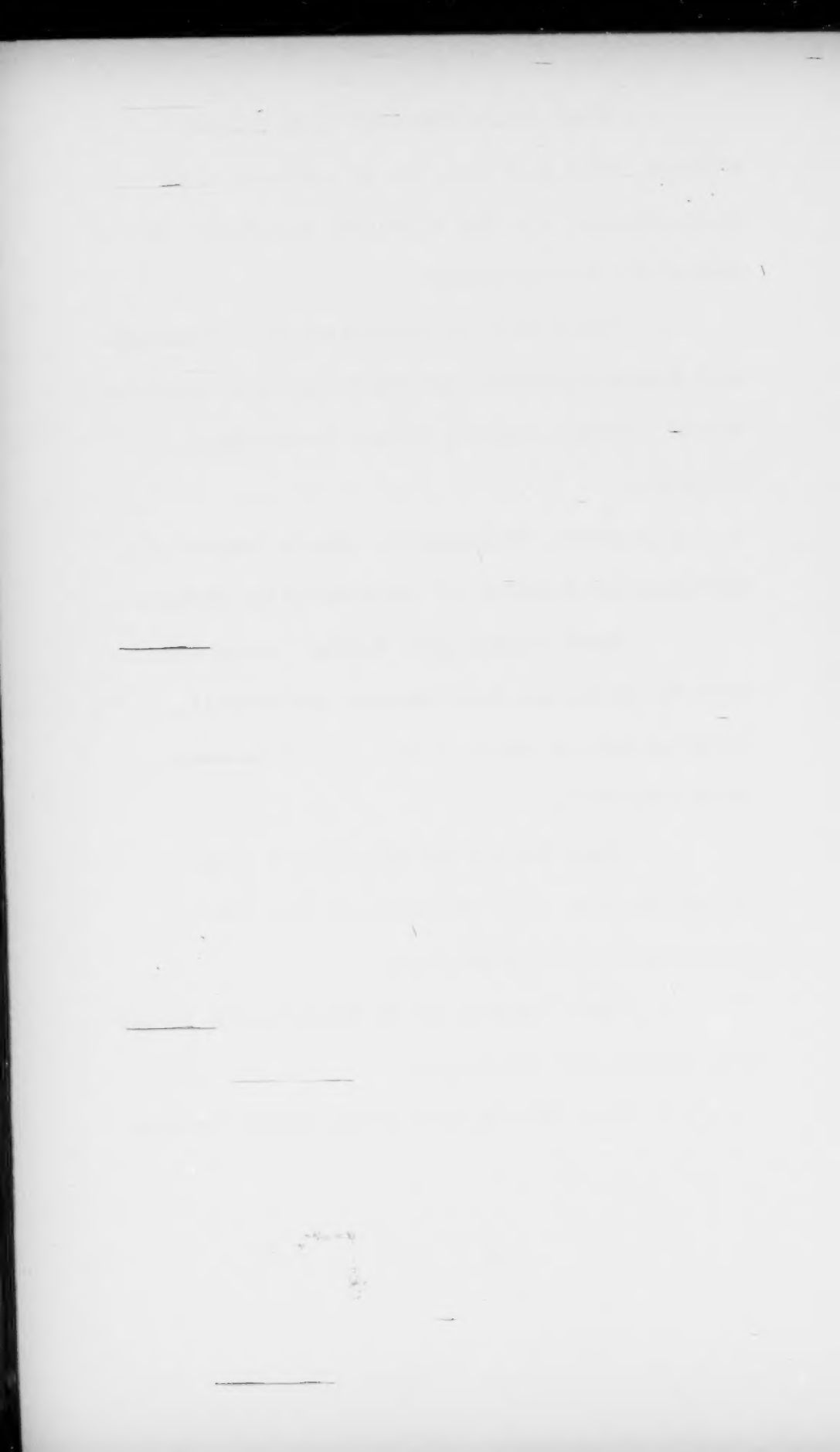
that, thereupon, Woods began a systematic method of undermining Hudak;

that Hudak and Woods' daughter, Sharon Lavelle, had become personally interested in each other and eventually were married;

that Hudak moved into a home owned by his wife Sharon on Beechwood Boulevard in Pittsburgh;

that Sharon is a Registered Nurse and regularly employed;

that Woods had previously helped





Sharon to make the monthly mortgage payments on her home;

that Woods has also paid tuition for Sharon's children at a private school;

that Woods enticed Geisler from the Hudak firm and helped Geisler create a new advertising law firm in competition with Hudak;

that Geisler extracted a large number of case files from Hudak's file room during the period when the new Geisler firm was being set up in friendly relationship with Woods; that Woods systematically began to attack the Hudak law firm to disintegrate it, and to destroy Hudak's ability to function legally or personally;

that Woods systematically began to attack his own daughter, Sharon, as a part of his plan to undermine Hudak;

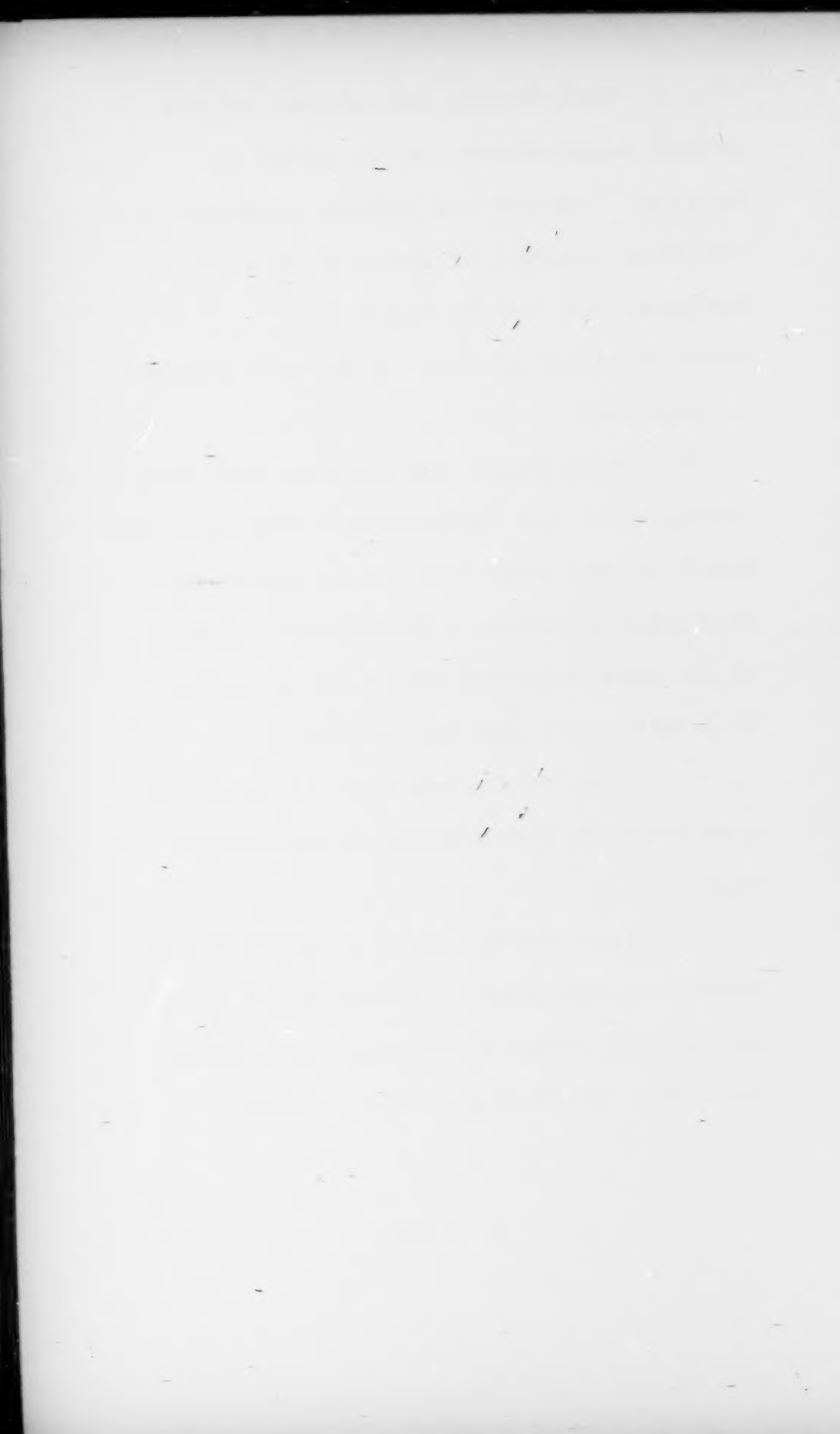


that during the course of the entire bombardment, Woods aided by Geisler, O'Brien and others incessantly notified clients of Hudak's failure to perform, but not of Woods own contributions in causing Hudak's failure to perform;

that Woods and Geisler notified officers of the Pennsylvania Disciplinary Board of the mass failure of Hudak to perform his duties towards his clients which were acquired while advertising with Geisler's and Woods' aid;

that Woods and Geisler notified creditors of Hudak's inability to pay them;

that Woods, Geisler and O'Brien sought to variously disable Hudak from performing legal business or any other business, or from seeing clients;



that Woods sought to bring  
disrepute to Hudak when he procured  
intermediate employment;

that Woods instigated the  
mortgagee of his daughter's home on  
Beechwood Boulevard to foreclosure  
proceedings to make it more difficult for  
her with her income as a registered nurse  
to keep up the payments on the Beechwood  
Boulevard home;

that Woods alienated the  
affections of a sister of Sharon and  
another of his daughters, and coerced  
Sharon's grandmother to stop babysitting  
for Sharon as she had previously done;

that Woods stopped tuition  
payments for and attempted to discredit  
the standing of Sharon's children at  
their school by making certain  
deleterious reports to the Headmaster of  
the children's school;



that Woods had placed telephone calls to Sharon at work to harass her and also place numerous telephone calls to her home, where there was a private, unlisted telephone number; and that this bombardment by Woods and Geisler has stopped case processing and that, as such, Woods and Geisler have interfered with the lives of hundreds of innocent and worried bankruptcy and divorce litigants.

I find specifically that the injunctive Order of Court dated October 1, 1987 has been intentionally and contemptuously breached by the defendant Woods, the defendant Geisler, and the defendant O'Brien and also by others to a much lesser comparative degree. Therefore, it is incumbent upon this court to hold them guilty of contempt of





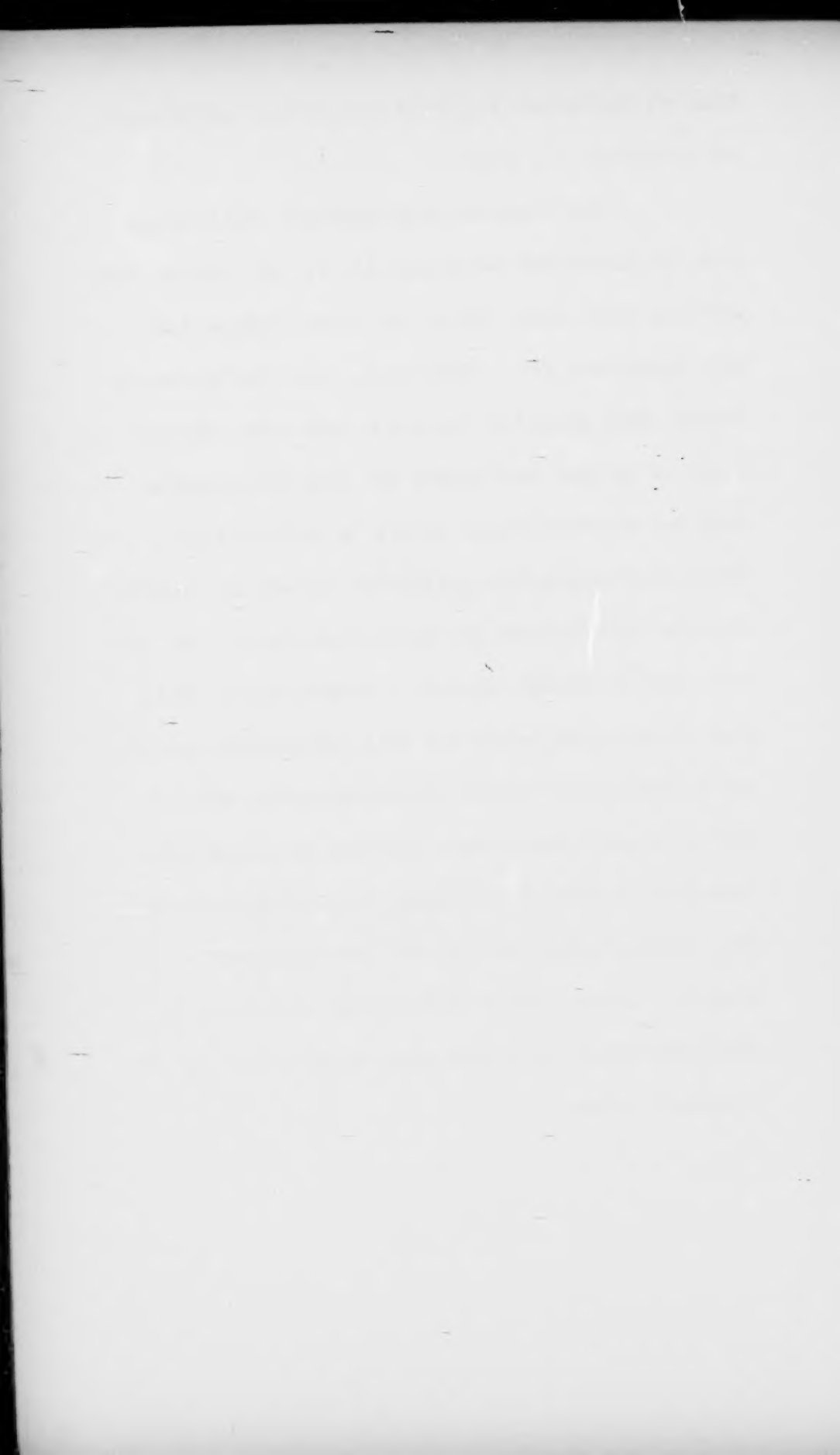
court and to deal with them as contemnors according to the requirements of law.

It is observable that on one side, Woods' associates contains a number of lawyers, one of whom, Geisler, has had business connections with him before and since his withdrawal from Hudak with a large number of Hudak's divorce and bankruptcy files, and others in legal representative capacities. On the other side, was Hudak, his wife and children, with even Hudak's attorney, Lampl, abandoning him while the trial was in process. It is observable that no bombardment has been instituted against any of the defendants. The avalanche of persecution is in one direction from the defedant Woods towards Hudak, his wife and their children. It has been that way since approximately August 1987, and continued without letup in defiance of



the stipulated injunctive Order of Court of October 1, 1987.

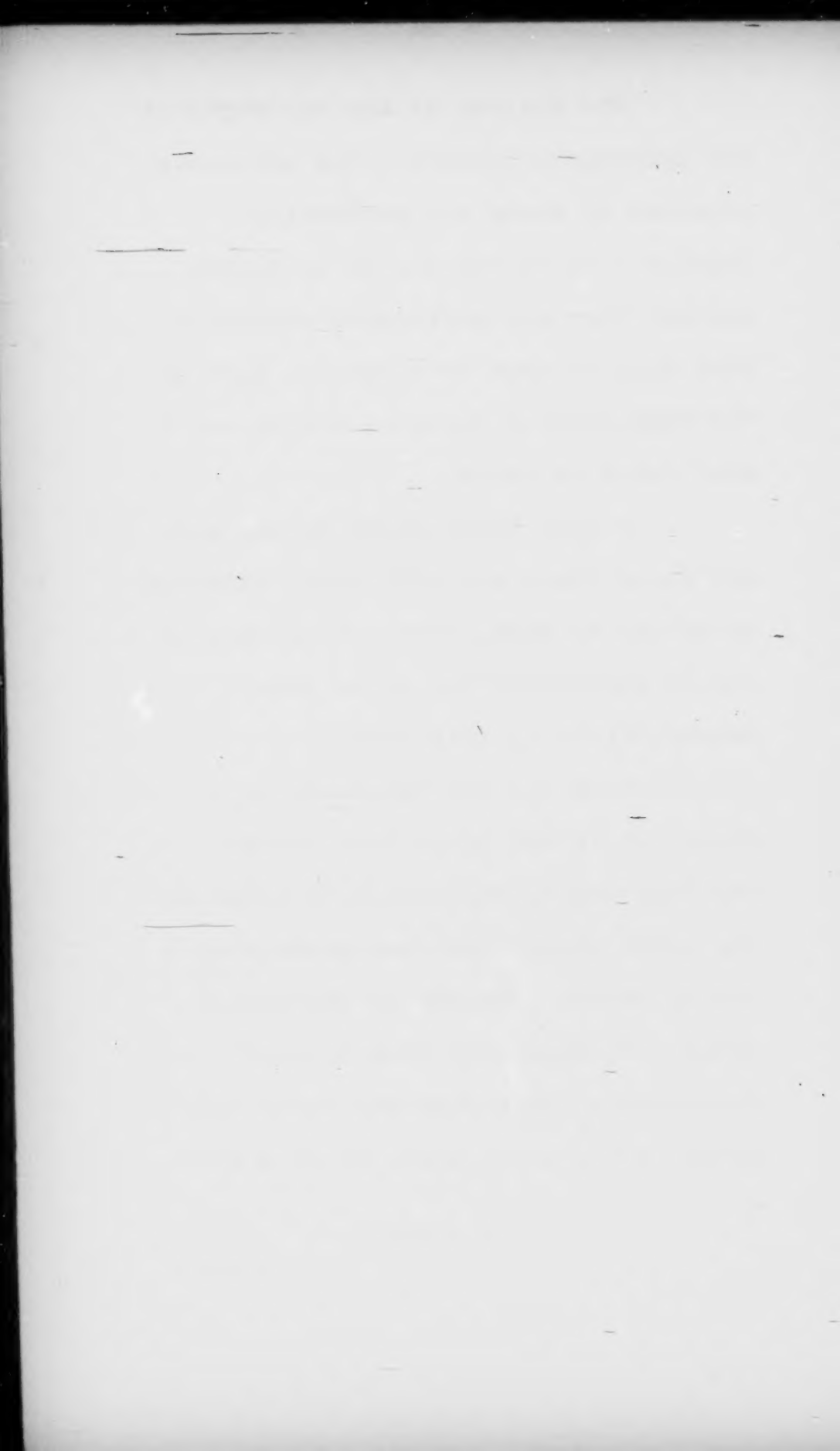
- The contemnors cannot challenge the injunction because it is of their own making and they have neither respected nor honored it. Instead, the defendants Woods and Geisler openly led the others into a gross defiance of its existence and so mocked this court's authority. This defiance was plainly shown by Woods in the courtroom at both hearings, on and off the witness stand. Especially this was displayed when he was adjudged guilty of a specific civil contemptuous action while this court was in the process of hearing a sworn witness in the midst of her testifying while on the witness stand. Thus, they continue their contemptuous actions and attitudes up to present time.



The quality of the contempts of the defendants differs. The attorneys retained by Woods are performing legally. It is not for me to decide whether they are performing ethically. That duty belongs to a special part of the Commonwealth Judicial Branch and I must leave it there.

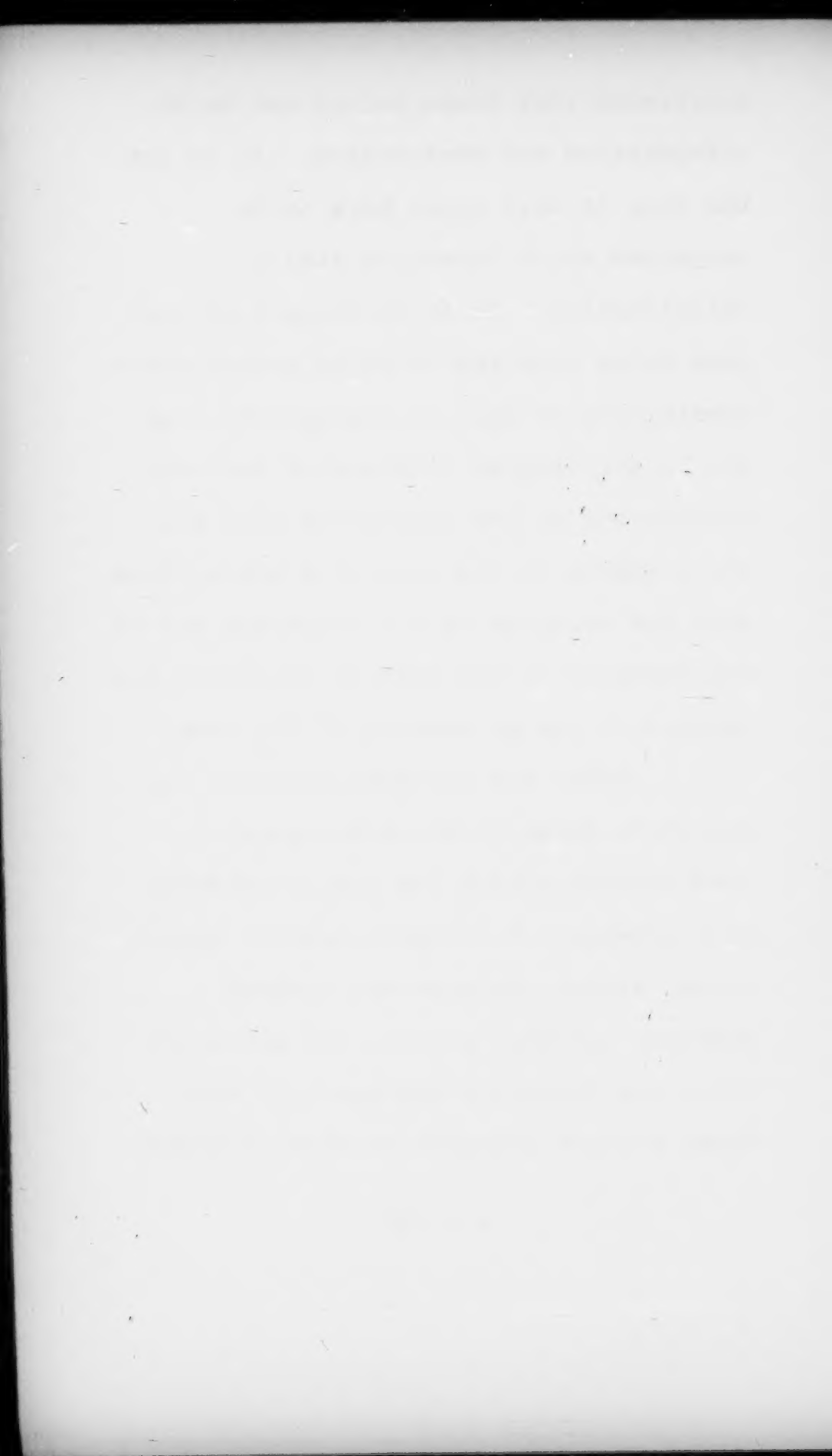
I find these facts in the main and while there are additional findings which may be made, what I find here is overly sufficient for me to make a determination in this case.

From all the testimony as a whole, it is not often that intra-familial enmity and hostility occur to the point where sometimes members of a family become desirous of destroying those with whom they have broken. Fortunately, this does not occur very often, but when it does, it is a sad



occurrence that human beings can be so vituperative and destructive. It is not the duty of this court here to be concerned about cementing family relationships. It is an element in this case which aids the court in seeing where credibility or lack of credibility lies and in arriving at Findings of Fact and Conclusions of Law consistent with all the evidence in the case as a whole, from what has occurred in the courtroom and of the demeanor of the parties including the lawyers in the processing of the case.

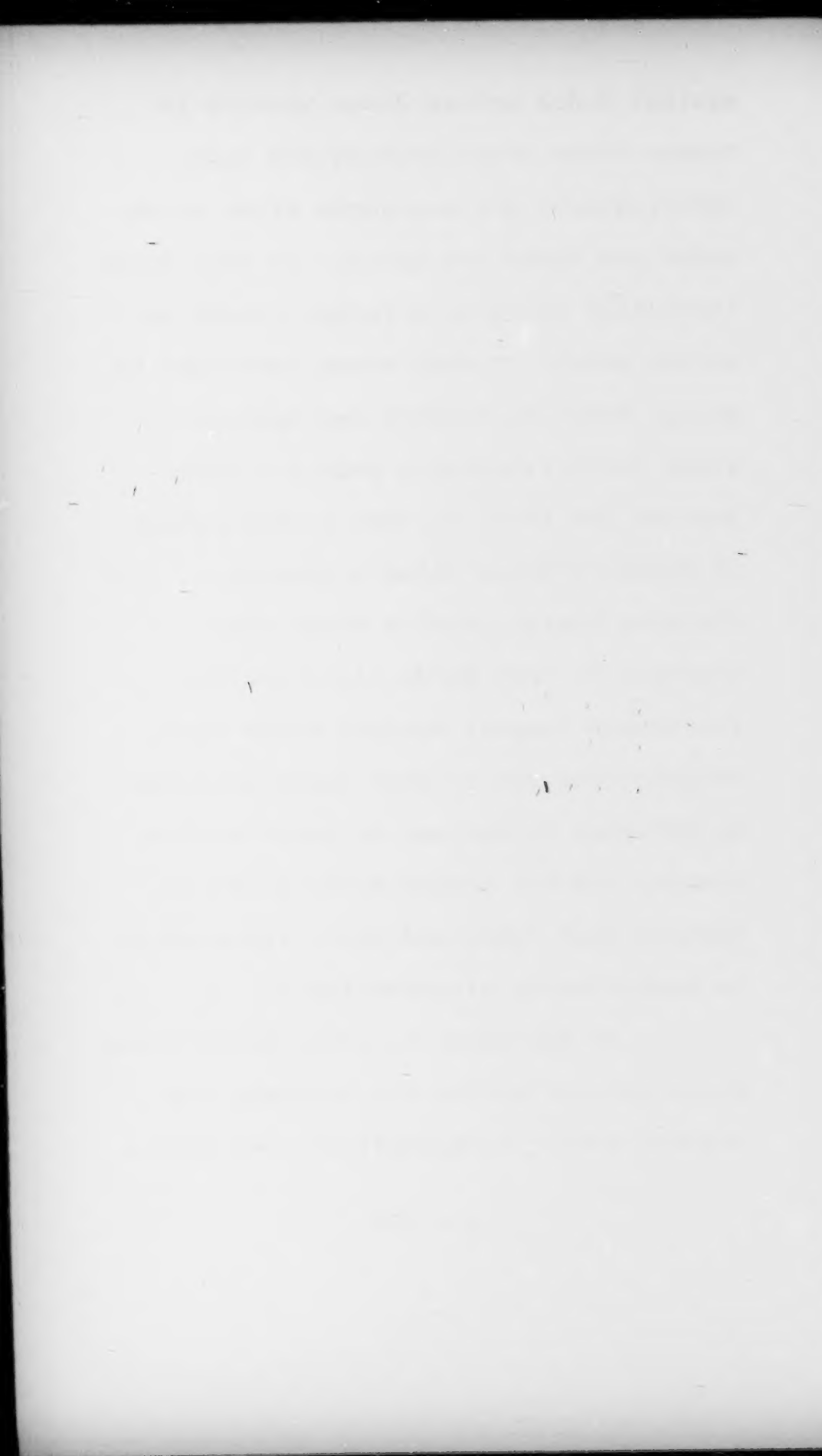
After the contempt hearing, the plaintiff Hudak filed on September 1, 1988 another motion for the procurement of a citation of contempt against Robert Woods, Michael Geisler and Richard O'Brian. In this motion, the plaintiff cites the following charges: 1) that Woods brought wrongful criminal charges





against Hudak before Judge Manning in Common Pleas Court causing him much embarrassment and annoyance after which Hudak was found not guilty; 2) that Woods instigated calls to a former client to malign Hudak; 3) that Woods continued to malign Hudak to Hudak's new employer after Hudak procured a position with another law firm; 4) that at the behest of Woods, O'Brian filed a lawsuit charging Sharon Lavelle Hudak with slander; 5) that Woods filed another four-count lawsuit against Hudak for malpractice; and 6) that Woods procured an attorney to deliver to Hudak's wife, Sharon, and her sister Kathy a letter stating that "they and their issue would be specifically disinherited."

On September 7, 1988, Hudak filed still another motion for contempt and charged that: 1) Michael Geisler sent a



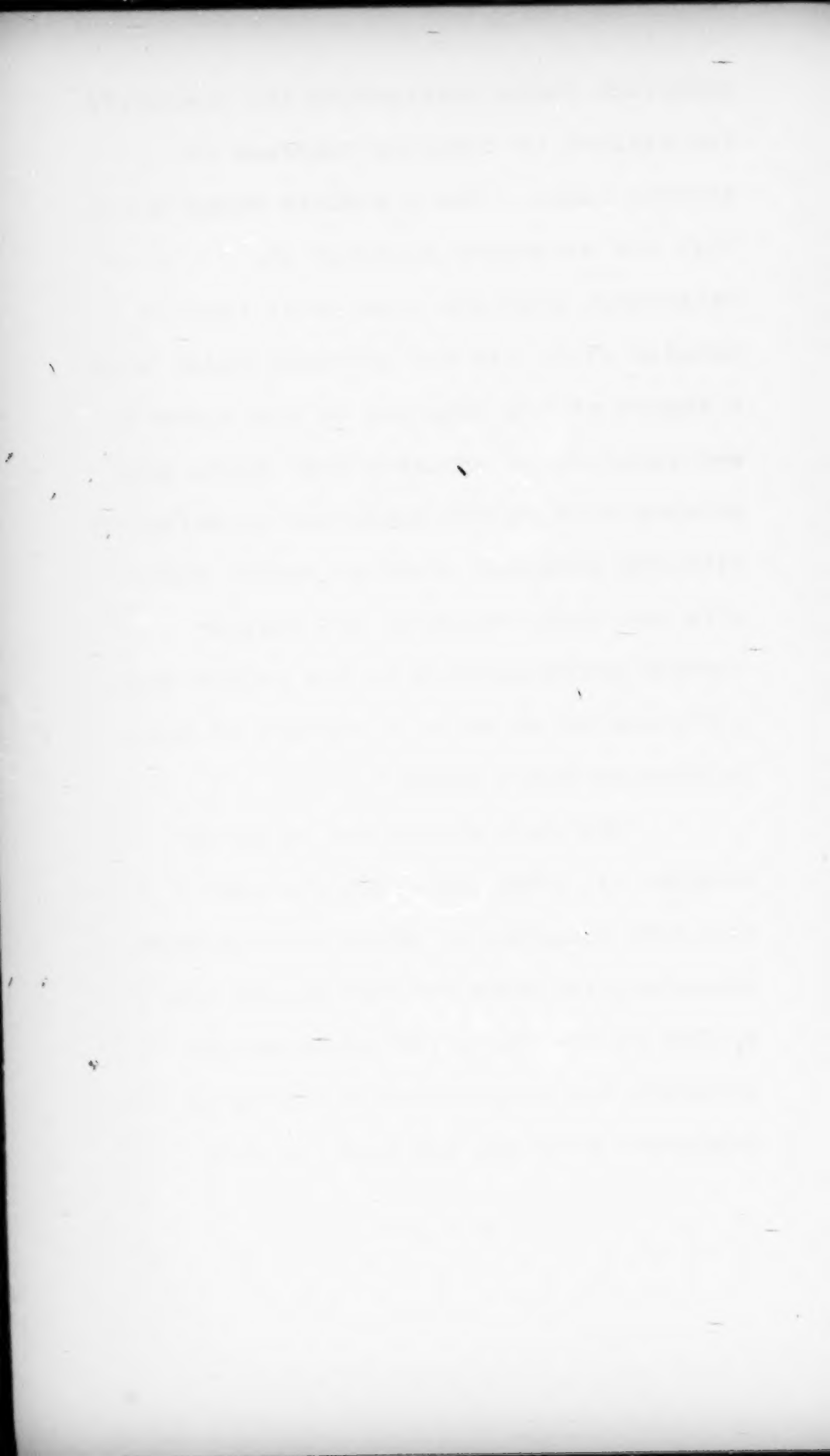
letter of annoyance to cause trouble for a member of the law firm where Hudak was employed; 2) the law firm where Hudak was employed receiving annoying telephone calls from two former clients of Hudak who stated that they received an anonymous telephone call telling them to place the calls to make complaints about Hudak; and 3) the law firm where Hudak is employed received telephone calls from persons who refused to identify themselves uttering obscenities toward Hudak.

Another motion for contempt was filed by Hudak on October 5, 1988. In this motion, the plaintiff avers that the defendants totally destroyed the public image of the plaintiff and that this was shown by Channel 11, a Pittsburgh television station, on September 20, 1988 broadcasting sensationalized and



incorrect facts castigating the plaintiff for failure to complete hundreds of divorce cases. The plaintiff Hudak avers that the defendant fomented the television stations interests; that Geisler still has not provided Hudak with a report of the progress of the cases he was required to process; that Woods and persons working for Woods are interfering with the personal lives of Hudak, his wife and their children and further "caused enormous harm to the public and continues to do so in violation of this injunctive Court Order."

The next motion was filed on October 13, 1988 and avers that an incident occurred in which insults and obscenities were shouted across the street at the plaintiff while he was entering the City-County Building to represent a client and that in this



disturbance on the heavily populated street, Woods rushed across the street shouting all sorts of obscenities that Hudak is a "rapist," "scum" and "pigface;" that Woods continued to do so within the building itself; and that this interfering with Hudak's business violates the Order of this court dated October 1, 1987.

The most recent motion filed by Hudak was on December 6, 1988 and he charges that: 1) the defendants started a mass mailing of letters to Hudak clients causing these clients to complain about Hudak to the Pittsburgh and Philadelphia offices of Hyatt Legal Services which employs Hudak; 2) about November 14, 1988, the defendants resuscitated a telephone campaign of the creditors of the Hudak law firm to pursue Hudak at his place of employment; 3) that defendant



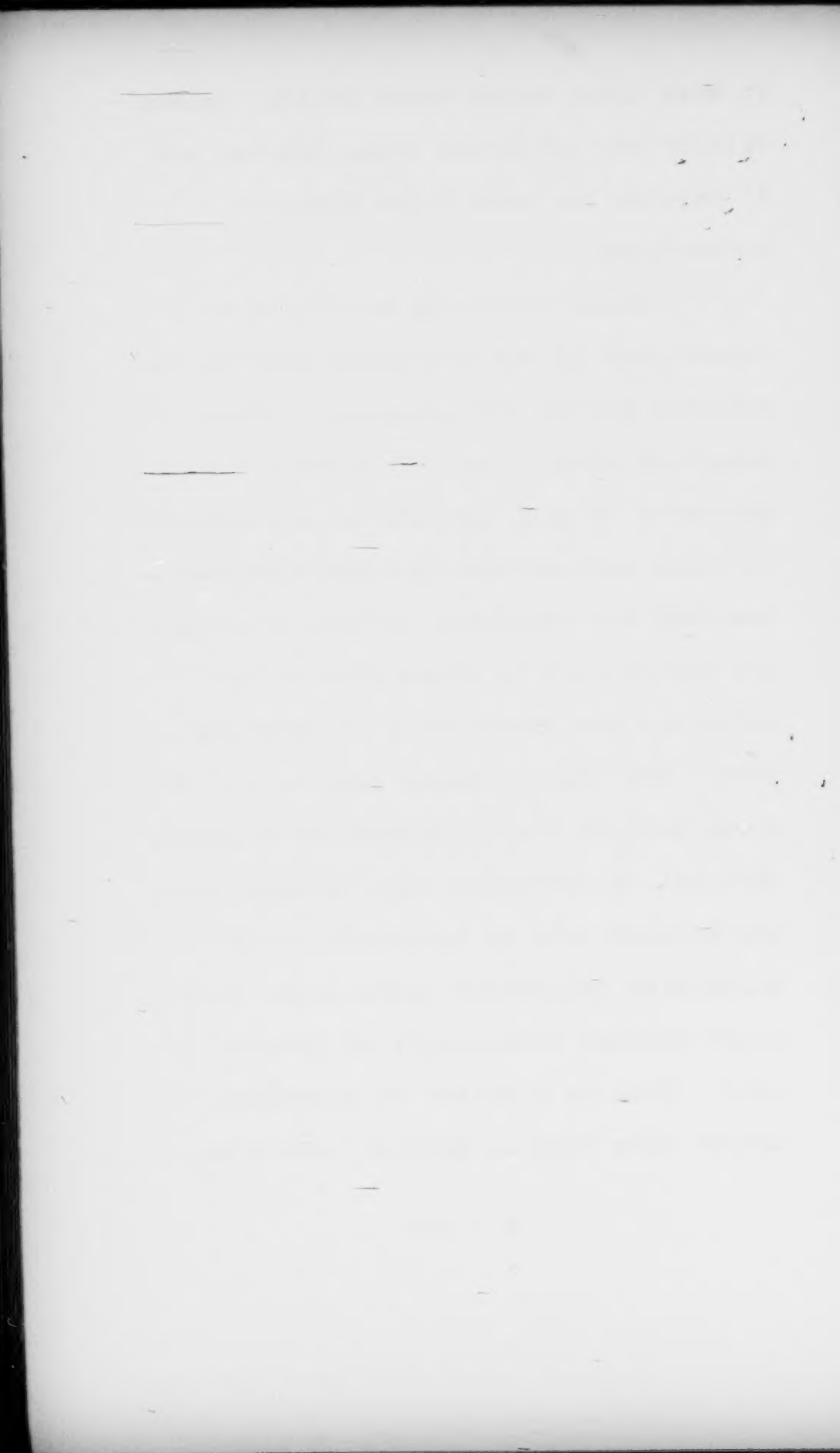


O'Brien is pursuing a baseless defamation case against Hudak's wife, Sharon; 4) that Woods using Geisler as his attorney filed two complaints in Common Pleas court charging that Hudak violated a lawyer's obligation to treat client files and papers confidentially and that he failed to return certain documents and business records to Woods; 5) that Hudak alleges "barratrous motions practice" for the purpose of harassing Hudak; 6) that Geisler presented a motion for sanctions against Hudak because Hudak falsely billed Woods \$150/hr.; 7) that Geisler filed a motion that Hudak had 100 suits filed against him and that Hudak evaded these suits by avoiding service of process by setting up a post office box and refusing to take the certified mail. At this point, Hudak questions how Geisler knew about these suits, even if



it were true, which Hudak denies, unless Geisler had contacted these people; and 8) Geisler has made false blatant accusations.

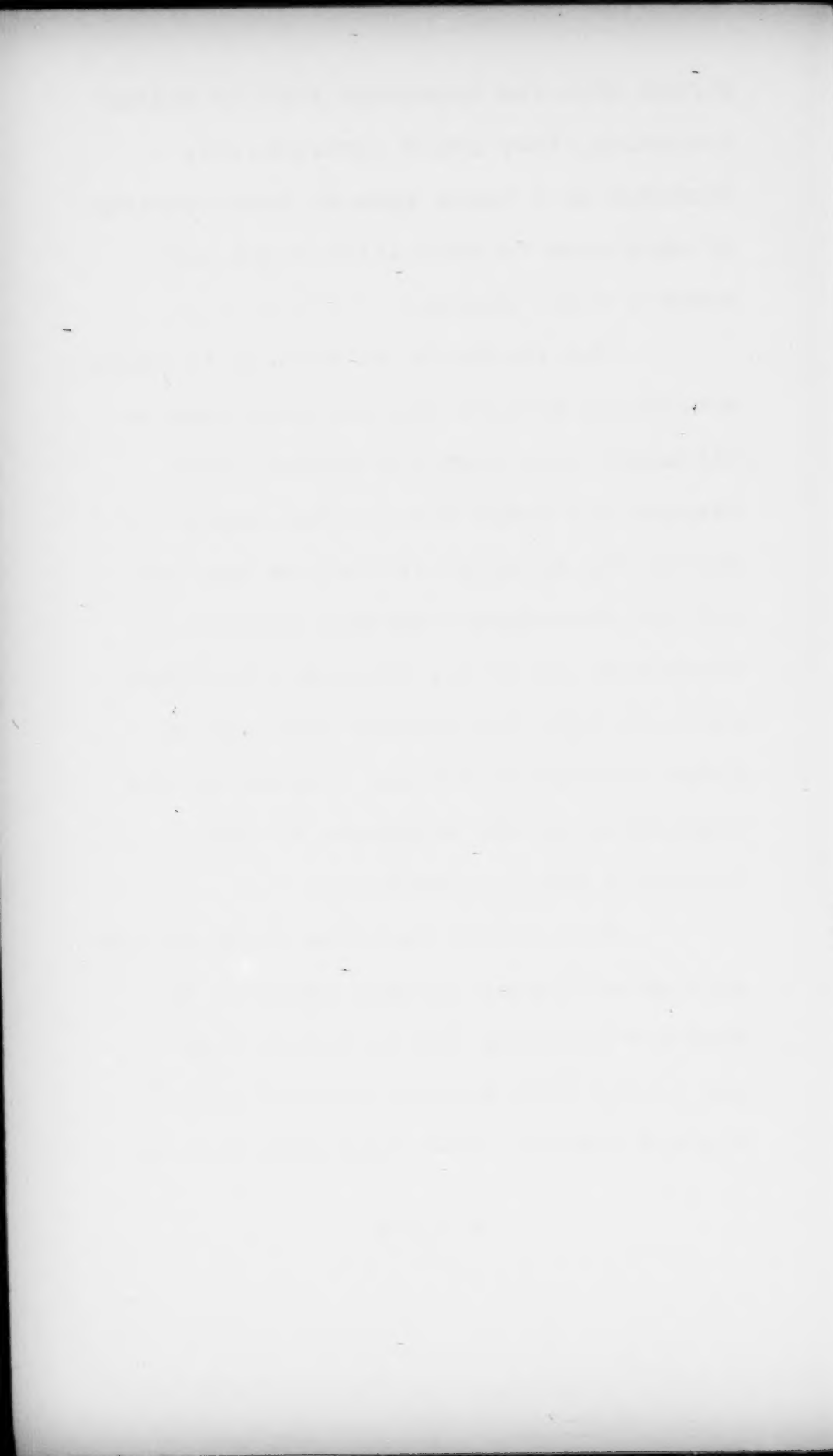
These follow-up motions also repeat some of the averments made in the original motion for contempt. After examining them, I am struck with the absurdity of such matters as are raised in these motions and conclude that no hearings are necessary to give plaintiff the opportunity to prove them or the defendant the opportunity to disprove them. The charges being made in all of these motions are in themselves evidence that all is not going well between those who entered into an agreement and a stipulated injunctive order which this court adopted accordingly on October 1, 1987. Even as a matter of surmising, I cannot take them as factual, but I am



struck with the knowledge that as things are going, they could inferentially continue as I heard them at both hearings of this case to demoralize Hudak and Hudak's wife, Sharon.

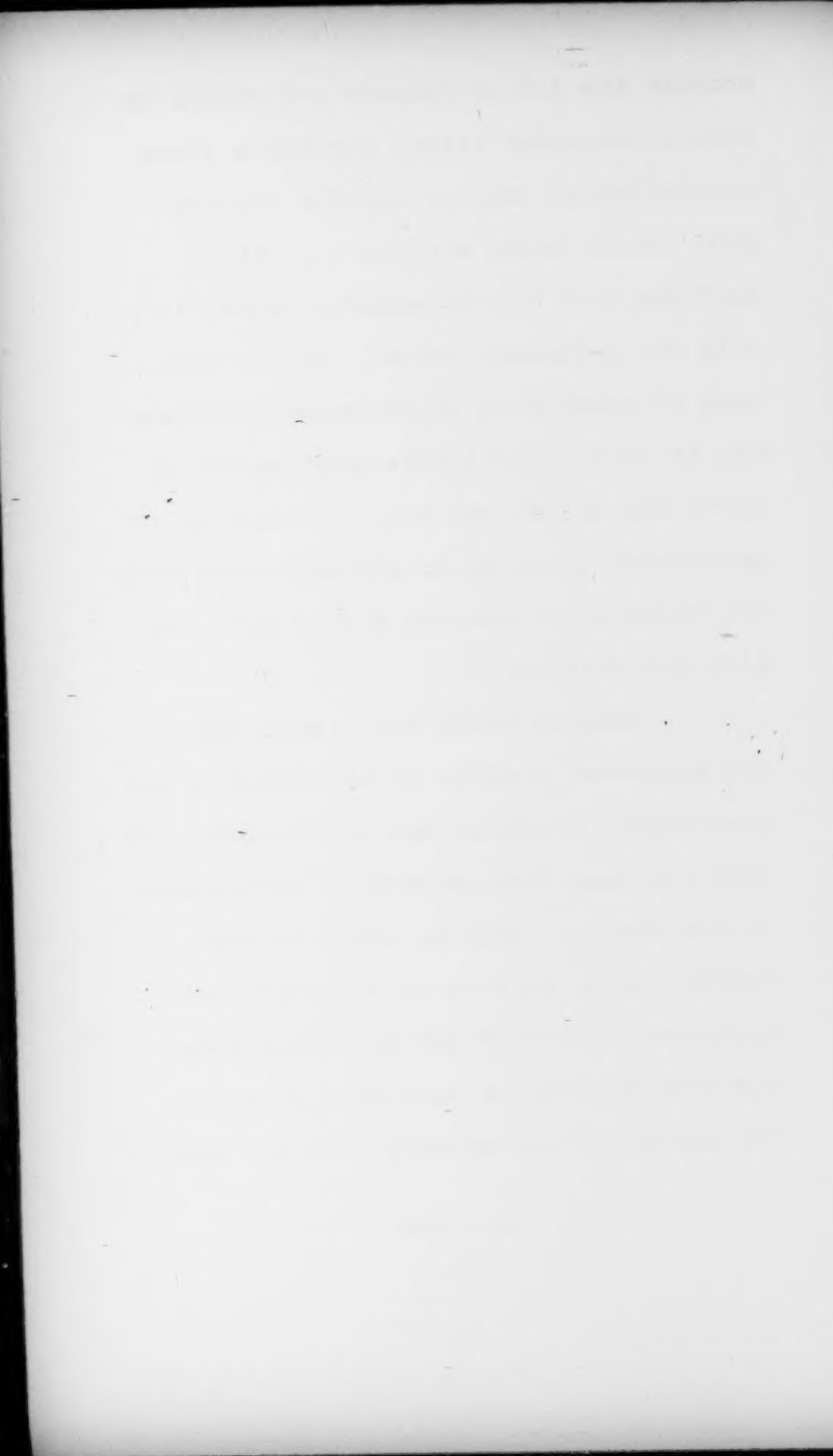
The incidents as averred in these additional motions are not much more or different than what had already been averred and heard before this court during the original injunctive hearing and the subsequent contempt hearing. Therefore, it is not necessary for this court to hold any further hearings on these subsequent motions because of the similarity of the averments of the incidents and circumstances.

This action is being tried by the parties with such dynamic force as to show a conspiracy led by Robert Woods, and joined with Michael Geisler and Richard O'Brian, they have been able to



procure the aid of lawyers and others to form a lop-sided attack against a young inexperienced lawyer, who did not use good common sense variously in his dealings with the defendants, especially with the defendant Woods. It was this lack of experience which helped to place him in this inextricable predicament of being the object who will continue to be persecuted until he is either driven from the earth or to unknown places with his wife and children.

Because Hudak was inexperienced and permitted himself to be placed in the predicament in which he finds himself, it does not mean that he must be left there by the courts. When he comes to the courts, as he does in this particular instance, he should not be turned away. The fact that he is foolishly to blame for certain minor matters does not mean





that others who are to blame should not be held accountable. That is a fact and I so find. Hudak did not breach the injunction Order of Court of October 1, 1987. The defendants, Woods, Geisler and O'Brien, I find, did breach it, and therefore, they are the culprits with whom this court must deal. There are other reasons why this court must act for a just and final termination. The set of circumstances presented to this court, if left alone will continue unjustly against many people. The many hundreds of litigants, completely blameless, continue to be left stranded if this court does not act. Another reason is that the reputation of the federal courts and to a large extent, lawyers, should not be left in a questionably creditable state.



Hundreds of anxiously waiting divorce and bankruptcy litigants were side-tracked from their remedies for which they paid the Hudak law firm and perhaps, inferentially, even to Geisler. These clients were used as pawns by Woods as aided by Geisler when after agreeing to perform according to a stipulation this case in accordance with the conditions of the injunction contained in the Order of Court dated October 1, 1987, they defied this court. Thus, they continue to defy this court's jurisdiction, and Woods has inaugurated and continues a campaign of harassment without let up against the plaintiff. Since Woods has persisted in a series of coercements against his own daughter resulting in harm to her and his own grandchildren, and since Woods was the total cause of this very unfortunate and



unnecessary action and its ramifications in this court, and since Woods continues to flaunt the Order of Court and its jurisdiction, I find the defendant Woods guilty as a contemnor in this action for civil contempt. He will be required to cooperate with all the parties and terms required of them. He will be permitted voluntarily to remedy as much as possible the turmoil and trouble he has brought about and to pay the designated costs with certain exceptions which shall be hereafter enumerated. I also find Geisler guilty of contempt.

Geisler and O'Brien, too, will be permitted the opportunity of purging and redeeming himself, with defendant Woods, as best as possible, by rectifying, within a prescribed period of time, the harm he has produced by acting as an abettor to Woods. Upon failure to comply



with this purging and redemption opportunity in all its facets, the defendants Woods, Geisler and O'Brien will be subject to instant specified incarceration based upon the number and extent of their further contemptuous actions.

I am also finding that the defendant Woods has been and is possessed of ample funds from the evidence in this case.

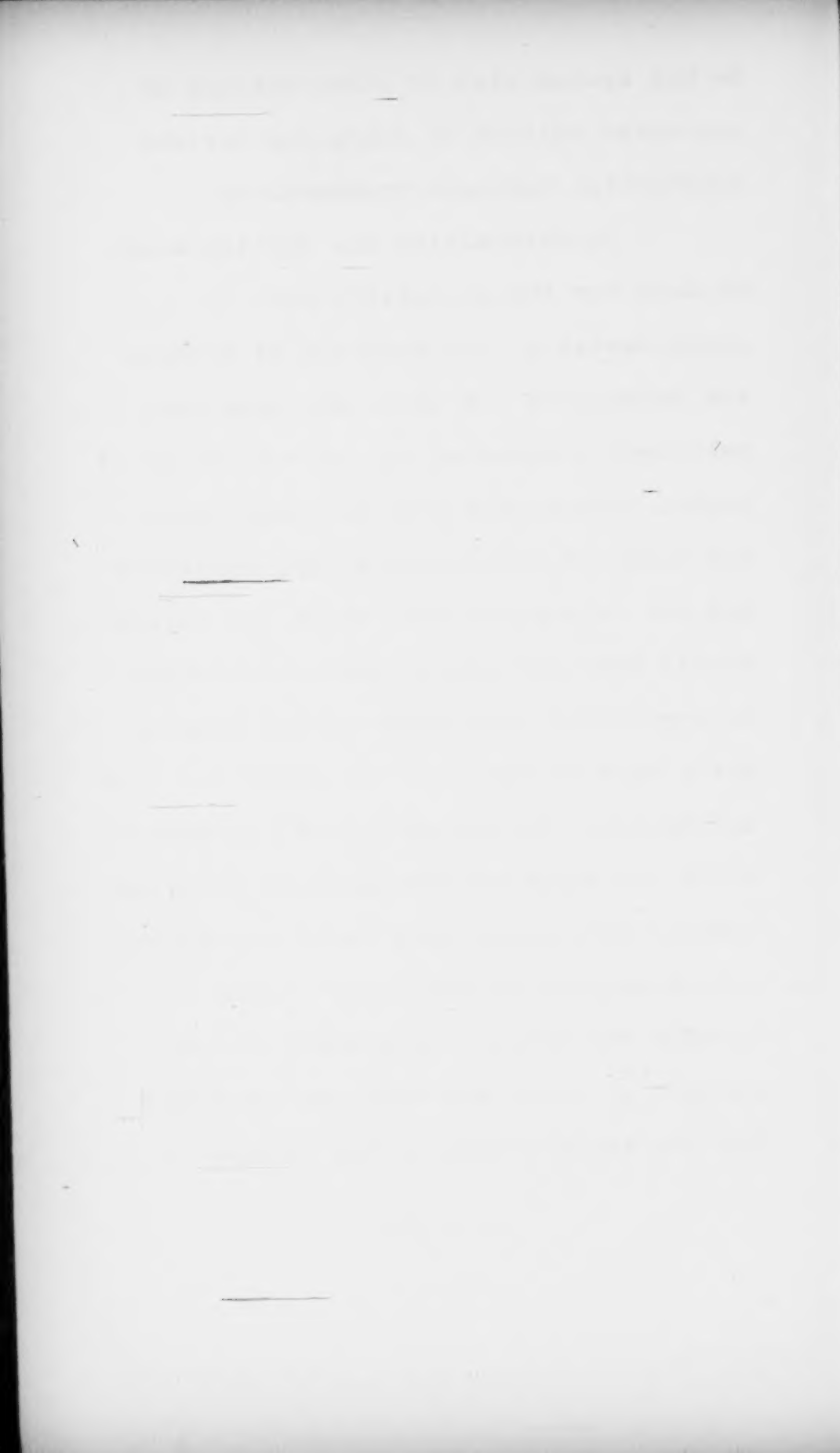
First, he has turned over \$80,000 of funds, without visible security, to the Hudak law firm and to Hudak for legal or other purposes either directly by Hudak or through Hudak. Second, he has paid the mortgage payments on his daughter, Sharon's property on Beechwood Boulevard for an undetermined period of time. Third, he has paid the tuition for his grandchildren at a private school.





He has spoken also of other outlays or requested outlays of funds for various substantial business transactions.

In determining how justice might be done for the plaintiff, and coincidentally, the hundreds of divorce and bankruptcy litigants who have been mercilessly stranded by the activities of Woods, Geisler and O'Brien, this court has examined the evidence very carefully and has determined that Woods and Geisler should bear the almost exclusive burden of rectifying this phase of the damages which were caused with the Hudak law firm disruption. As stated before, defendant Woods has supplied overwhelming evidence himself indicating that he is in control and possession of sufficient funds to finance the corrective process in the payment of costs and expenses necessary for the satisfaction of the various



disappointed clients and that Geisler is in control and possesses or should be in control or possession of funds which should be allocated to the processing of these cases. He, as well, is obligated to perform the functions of the attorney in these cases which he had undertaken to do in the injunctive proceeding and concerning which he now stands as a contemtor for failing to do what he agreed and was mandated to do by the Order of Court dated October 1, 1987. Thus, Woods, Geisler and O'Brien are guilty of civil contempt and may now redeem themselves in order to avoid punitive consequences for failure to do so.

Civil contempt proceedings involve three stages: 1) the issuance of a court order (followed by failure to comply with that court order); 2) after



disobedience of the order, the issuance by the court of a conditional order finding the disobedient party in contempt including a threatened imposition of penalty if the disobedient party fails to purge himself by complying with court's prescribed purgation conditions; and 3) execution of the threatened penalty if the disobedient party fails to purge himself by meeting the conditions set down by the court. NLRB v. Blevin Popcorn Company, 659 F.2d 1173 (DC Cir. 1981).

In the instant case, we are in the second stage of this procedure. The matter before me is a civil contempt matter and is distinguished from criminal contempt. The purpose of criminal contempt is to punish intentional misconduct. Civil contempt is a sanction to force compliance with a prior court order or to compensate for damages that are a result

Subscription price, Five Dollars per Annum in Advance. Single Copies, Fifteen Cents.

Entered as Second-Class Matter, May 26, 1892. Postpaid at Special Rate of \$3.75 per Annum.

Acceptance for mailing at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

Postpaid at Special Rate of Postage provided for in Act of October 3, 1917.

of non-compliance with the order. The elements of civil contempt are knowledge of a court's order and the ability to comply with that order. Shillitani v. United States, 384 U.S. 364, (1966).

Consent decrees are judgments which have the force of res judicata and may be enforced by judicial sanctions including a citation for contempt. S.E.C.v. Randolph, 736 F.2d 525 (9th Cir. 1984). At this stage of the contempt proceeding, the court offers the defendants an opportunity to purge themselves of the contempt. The purpose of this purging is not to punish the conduct of the defendants, but rather to give them an opportunity to comply with the court's order and to remedy any harm which might have been caused by the Defendants' prior failure to comply with the court order. See Oil, Chemical and





Atomic Workers, Supra. International Union, AFL-CIO v. NLRB, 547 F.2d 575 (DC 1976). Lack of willfulness, good faith, or reliance on advice of counsel or others does not relieve an individual of liability for civil contempt. United States v. Snyder, 428 F.2d 520 (9th Cir.) Cert. den. 400 U.S. 903, (1970), Fortin v. Commissioner of Massachusetts Dept. of Public Welfare, 692 F.2d 790 (ast Cir 1982), TWM Manufacturing Company, Inc. v. Dura Corporation, 722 F.2d 1261 (6th Cir. 1983).

It is necessary for this court to determine what standard of proof is necessary in this type of proceeding. This proceeding for contempt is civil and remedial in nature. The intent of the respondents is irrelevant in determining violation of a court order for contempt purposes. McComb v. Jacksonville Paper



Company, 336 U.S. 187 (1949). Because the intent is irrelevant, the proper standard for this court to apply in this proceeding is the evidentiary standard of clear and convincing evidence. NLRB v. Decaturville Sportswear Company, Inc., 518 F.2d 788, 790 (6th Cir.) cert. den. 423 U.S. 913 (1975). In this stage of the contempt proceeding, it is proper for the court to put the disobedient parties on notice that unless they purge themselves of their contempt by obeying the court's decree, they will be fined or face other sanctions. If the conditions of purgation are met, the contemnor can avoid the threatened penalty. Blevin popcorn company, Supra., at 1185.

The defendants have not raised defenses of substantial compliance or inability to comply as defenses in this contempt proceeding, however, this court



finds there has not been substantial compliance or inability to comply on the part of either defendant. This court finds that Geisler, Woods and O'Brien knew well what they were doing. They entered into the stipulation freely and with the advice of counsel. this court is convinced that together they masterminded a plan to intentionally hurt Hudak and his clients. Counsel would have this court believe that the activities of these defendants were de minimus or not specifically enjoined, and therefore, their activities should not be held as contemptuous. The Supreme Court could have been writing about Woods, Geisler and O'Brien when they made the following statement regarding an appeal from a contempt proceeding:

It does not lie in their mouths to say that they have an immunity from civil contempt because the plan or scheme which they adopted was not



specifically enjoined. Such a rule would give tremendous impetus to the program of experimentation with disobedience of the law which we condemned in Maggio v. Zeitz, Supra, at 69. The instant case is an excellent illustration of how it could operate to prevent accountability for persistent contumacy. Civil contempt is avoided today by showing that the specific plan adopted by respondents was not enjoined, Hence, a new decree is entered enjoining that particular plan. Thereafter, the defendants work out a plan that was not specifically enjoined. Immunity is once more obtained because the new plan was not specifically enjoined. And so, a whole series of wrongs is perpetrated and a degree of enforcement goes for naught. McComb, Supra ., at 192.

Even though, the respondents specifically agreed in writing to the stipulation prepared by their counsel, if they were unable to comply with its terms, they could have petitioned this court for relief. But, Woods, Geisler and O'Brien chose not to do this. At their own peril, they decided what course

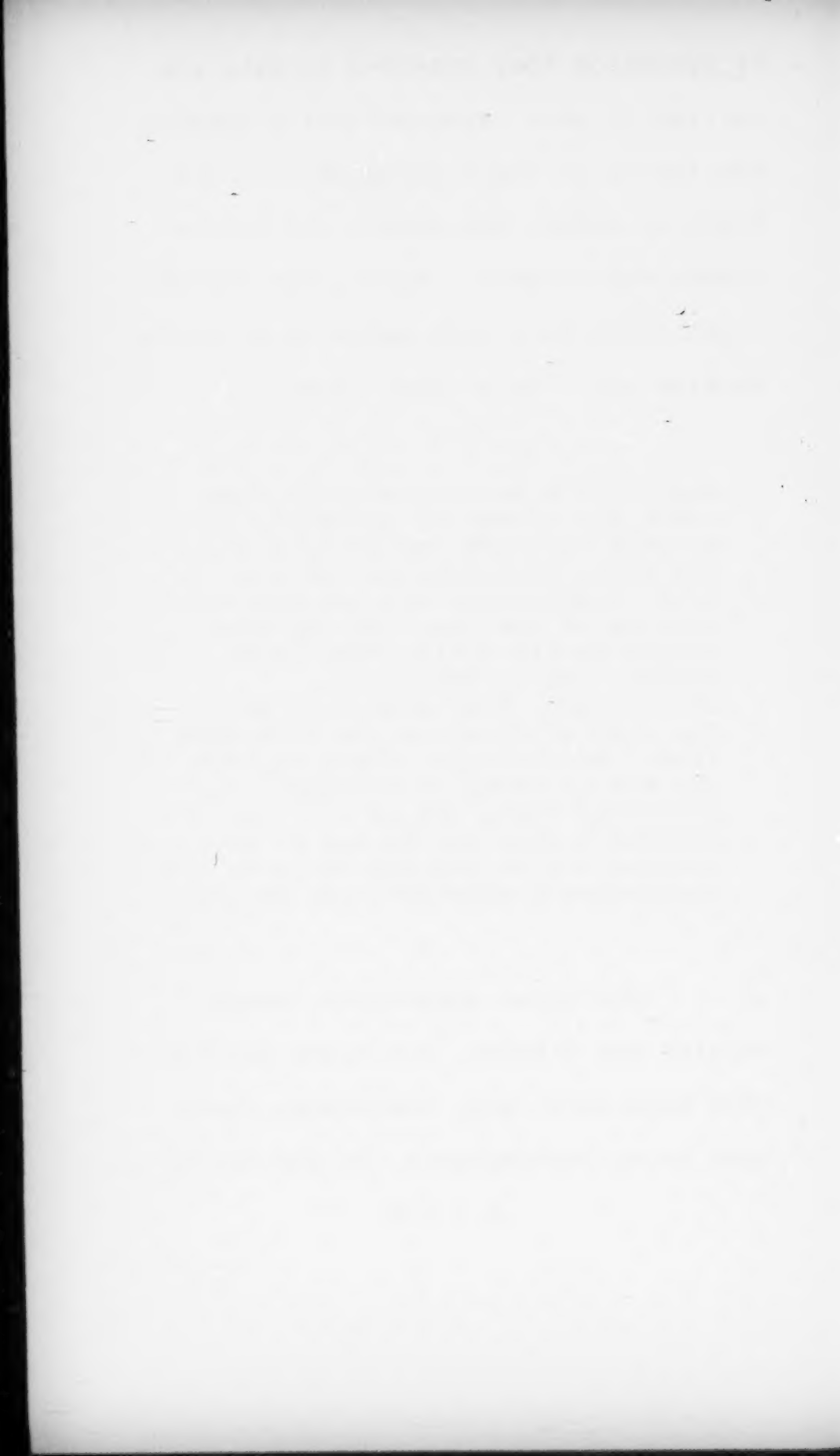




of operation they intended to take and carried it out: systematically heaping the fruits of their contempt upon the heads of Hudak, his family and on the unserviced clients. Again, the Supreme Court could have been speaking of Woods, Geisler and O'Brien when it said:

they took a calculated risk when under the threat of contempt, they adopted measures designed to avoid the legal consequences (of the Act). Respondents are not unwitting victims of the law. Having been caught in its toils, they were endeavoring to extricate themselves. They knew full well the risk of crossing the forbidden line. Accordingly, where as here the aim is remedial and not punitive, there can be no complaint that the burden of any uncertainty in the degree is on the respondent's shoulder. Id. at 193.

The three defendants, Woods, Geisler and O'Brien, are being notified that this court has, therefore, found them to be contemptuous, in and out of



the courtroom, and for the breaches and violations of the injunctive Order of Court dated October 1, 1987, and accordingly, within ten (10) days from the date of the filing of this opinion, if they fail to heed the warning given them, they will be dealt with as contemnors who flout this court in its authority. IRS v. Norton, 717 F.2d 767 (3rd Cir. 1983).

To aid them in knowing what actions they are flouting, it is being set forth for their full understanding and knowledge.

**NOTICE OF BASIS FOR FULFILLMENT OF REDEMPTION:**

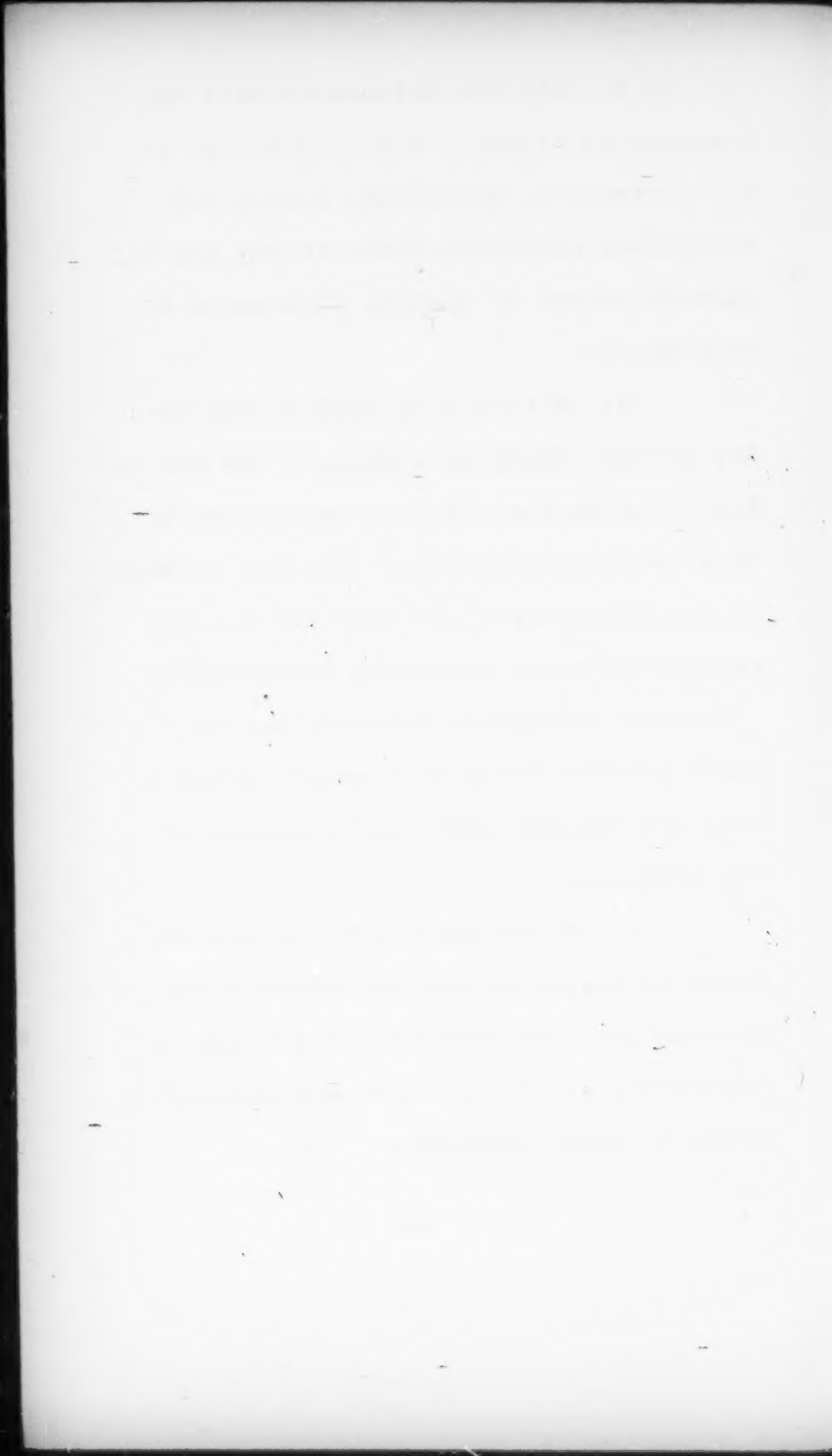
1) All the defendants will be required to cease and desist from molesting in every possible way the plaintiff, Joseph E. Hudak:



2) All the defendants will be required to withhold the transmittal of any statements, mouthings, gossip and references regarding Hudak to any and all persons except by special permission of this court;

3) Within five days of the 10-day period, Woods will deposit the sum of \$10,000 with the official designated by this court as the Master, for the purpose of providing costs and expenses for the payment of cases requiring filing costs and other litigation expenses and he shall provide funds on a weekly basis to keep the \$10,000 cost fund replenished and adequate;

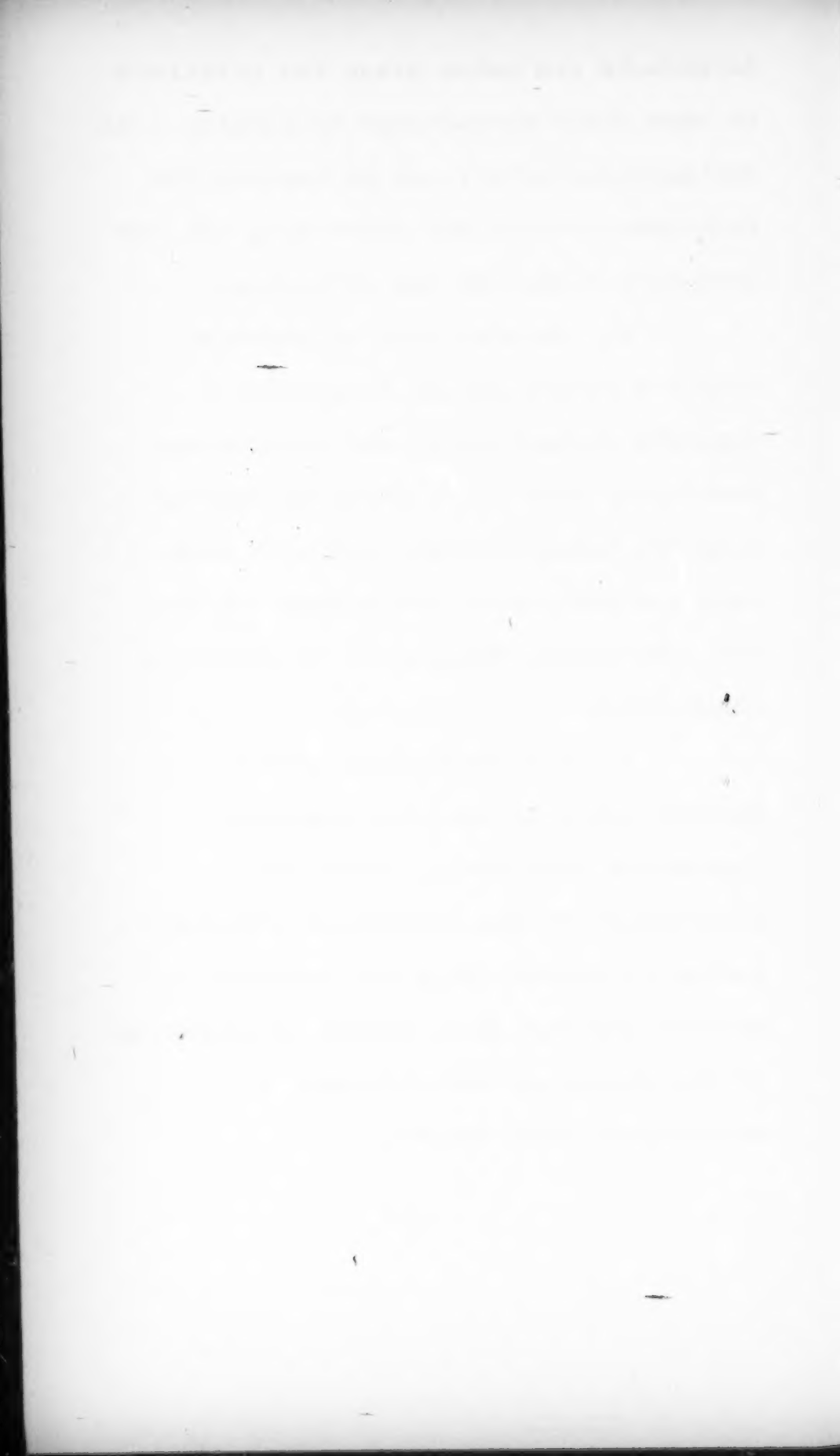
4) Woods shall provide all the funds necessary except for those which Geisler shall be directed to provide for furthering all the divorce and bankruptcy cases to their completion. The



defendants are being given the privilege to show their earnestness to rectify such contemptuous activities by ceasing the forbidden conduct and performing all the mandatory orders of the injunction.

5) Geisler will be required within a 10-day period to present a complete accounting of all divorce and bankruptcy case files which he removed from the Hudak offices, and with each case a summation of its status, to the official master designated in charge of supervision;

6) the defendants, Woods, Geisler and O'Brien, will separate themselves completely, under the supervision of the authorized official Master in charge, from all personal matters and business, except as permitted by the delegated official master supervising this matter;





7) Geisler will be required to act as counsel on all Hudak bankruptcy and divorce cases assigned to him by the official master appointed by the court for the purpose of supervision, except for those for which he shall have been relieved, and for which other counsel shall be appointed to do so and for which the forbidden by law. They are being first warned here so that within cost fund secured by Woods shall be responsible;

8) Woods will file within an allotted time a list of his personal holdings and those which he holds jointly with any other person or corporation and to what extent, and other holdings under veil or pseudonym names;

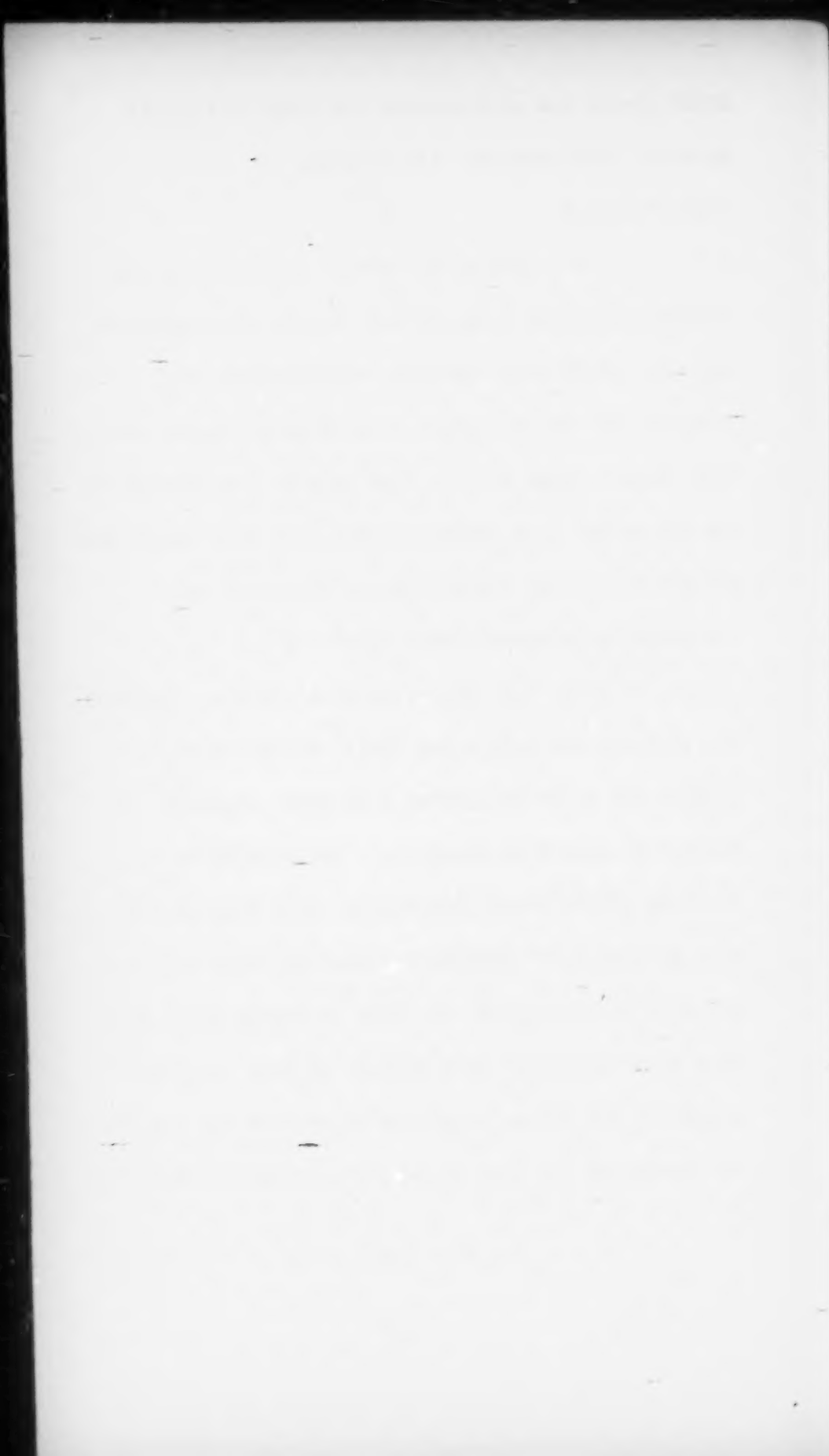
9) Geisler will be required to provide monthly reports on the circumstances and financial status of



each case he processes to the official Master designated in charge of supervision;

10) Geisler shall also provide immediate and specified funds designated by the official master delegated in charge by this court for supervising all its functions which the court requires to be done by the defendants for the purpose of permitting them the privilege of redeeming themselves; and

11) As for the plaintiff, Joseph E. Hudak, he will be left to pursue the right to a livelihood for the support of himself and his family. This court is taking into consideration the fact that the plaintiff himself, who is not guilty of any violations of the injunction, did use misjudgment and human error in his conduct in this case as a whole so as to be lacking in merit of any compensatory



aids by the court other than that of protecting his constitutional rights as a human being and an American citizen.

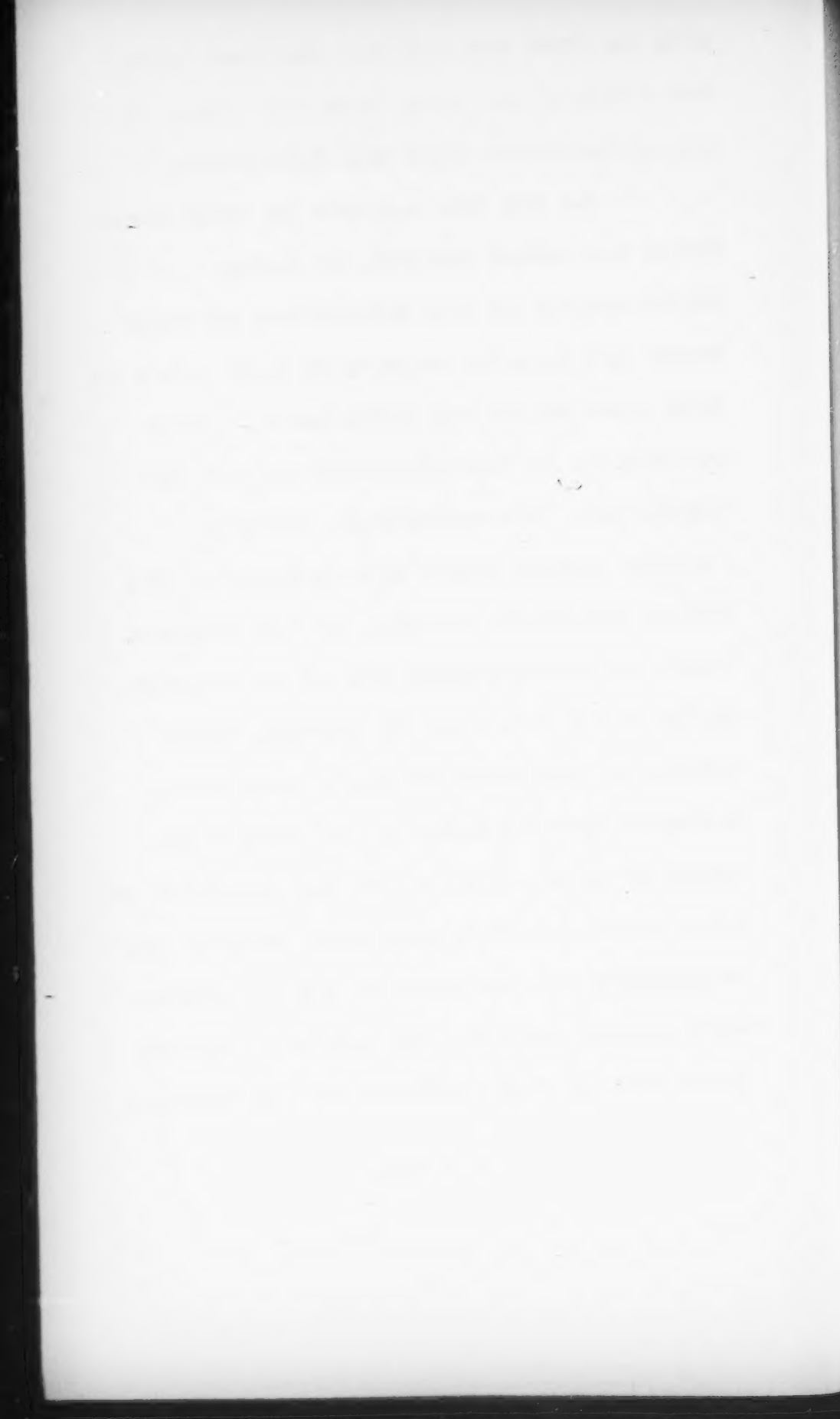
Therefore, while I cannot find that Hudak was a guilty party in this proceeding, since he violated neither the injunction nor the contempt court orders, he is not being allowed any compensation or benefits other than those specified upon the performance of the obligations as required of the defendants, Woods, Geisler and O'Brien.

As for Mrs. Sharon Lavelle Hudak, she is not a party, but so closely related to both sides as to make it necessary to express a certain amount of sympathy for her because of the predicament in which she and her children now exist. But, it will be remembered that this was her choice and she must live by it and by the aid this court can



give so that she and her children with her husband can live free and clear of all persecution from the defendants.

As for the lawyers in this case, Hudak has named several as being participants in the activities of both Woods and Geisler expecting this court to hold them as guilty defendants, This contention of the plaintiff cannot be supported. The attorneys, without further naming them, are members of the Bar of Allegheny County, of the Supreme Court of Pennsylvania and of this court. It is their function to perform their duties to the best of their abilities, honestly and forcefully, on behalf of their clients. It is not the function of this court to determine here whether the defendants so represented their clients. As I stated before, the judicial system is so set up that members of the various

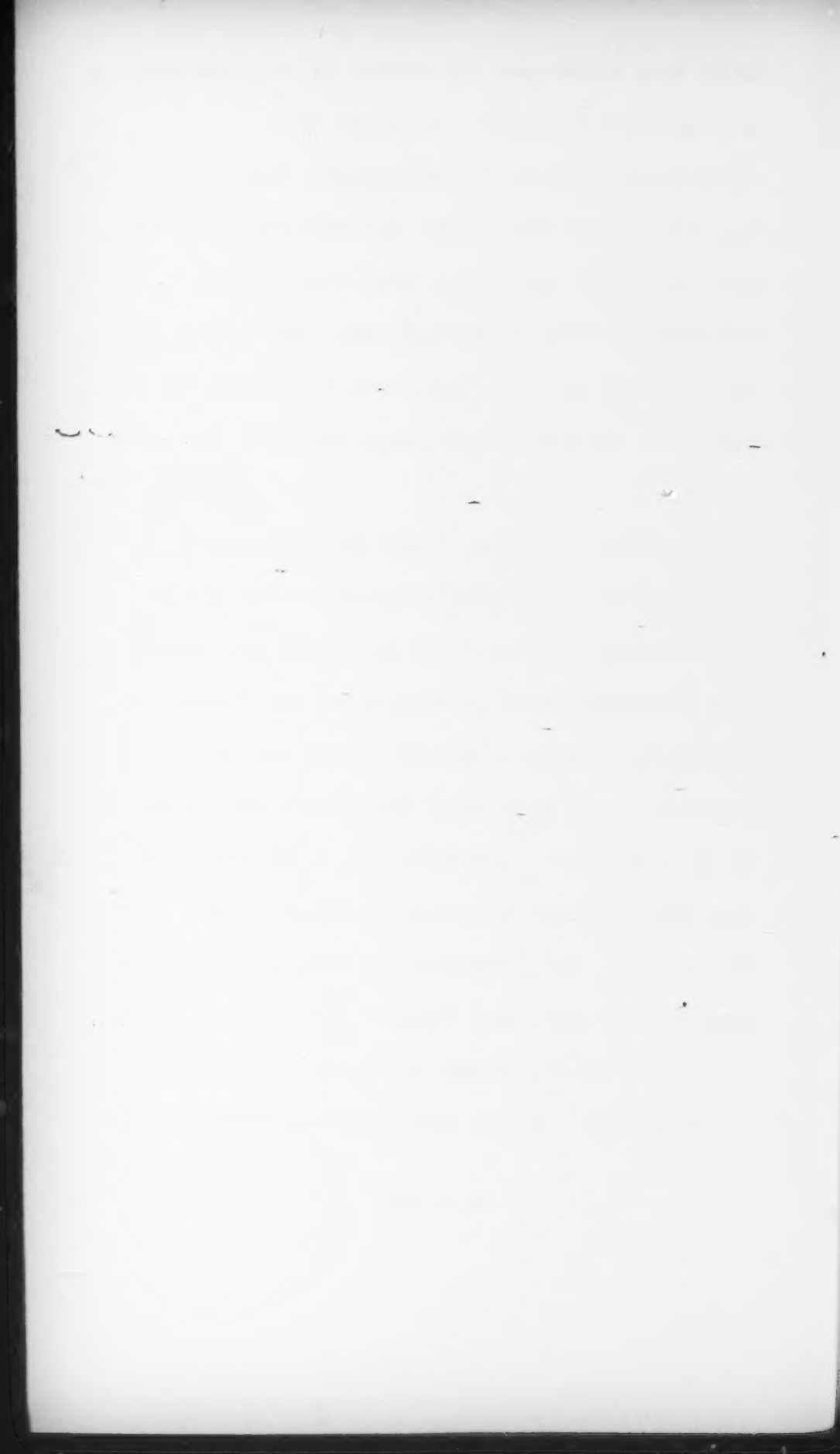




bars are governed by codes of ethics and may be disciplined, as some are constantly being disciplined, for violation of the codes of ethics. it is not for this court to say that these attorneys have violated any code, but it is for the proper judicial tribunal to so decide, if required, and it will be left there.

As for the other defendants, while they were participants with Woods in various matters and activities, these are inconsequential compared to those transgressions of Woods, Geisler and O'Brien, and properly dealing with both Woods, Geisler and O'Brien will satisfy the demands of justice in this case. Therefore, no judgment is being pronounced against them.

The Findings of Fact and Conclusions of Law are incorporated in



this Opinion in accordance with Federal  
Rules of Civil Procedure 52.(1)

---

(1) Rule 52. Finding by the Court

"(a) Effect. In all actions tried upon the facts without a jury ... the court shall find the facts specially and state separately the conclusions of law thereon .... If an opinion or memorandum of decision is filed, it will be sufficient if the findings and conclusions of law appear therein."



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDAK,  
Plaintiff,

)  
)  
)

v. CIVIL ACTION NO. 87-1999

ROBERT WOODS, MICHAEL S. GEISLER )  
and RICHARD O'BRIAN )  
Defendants. )

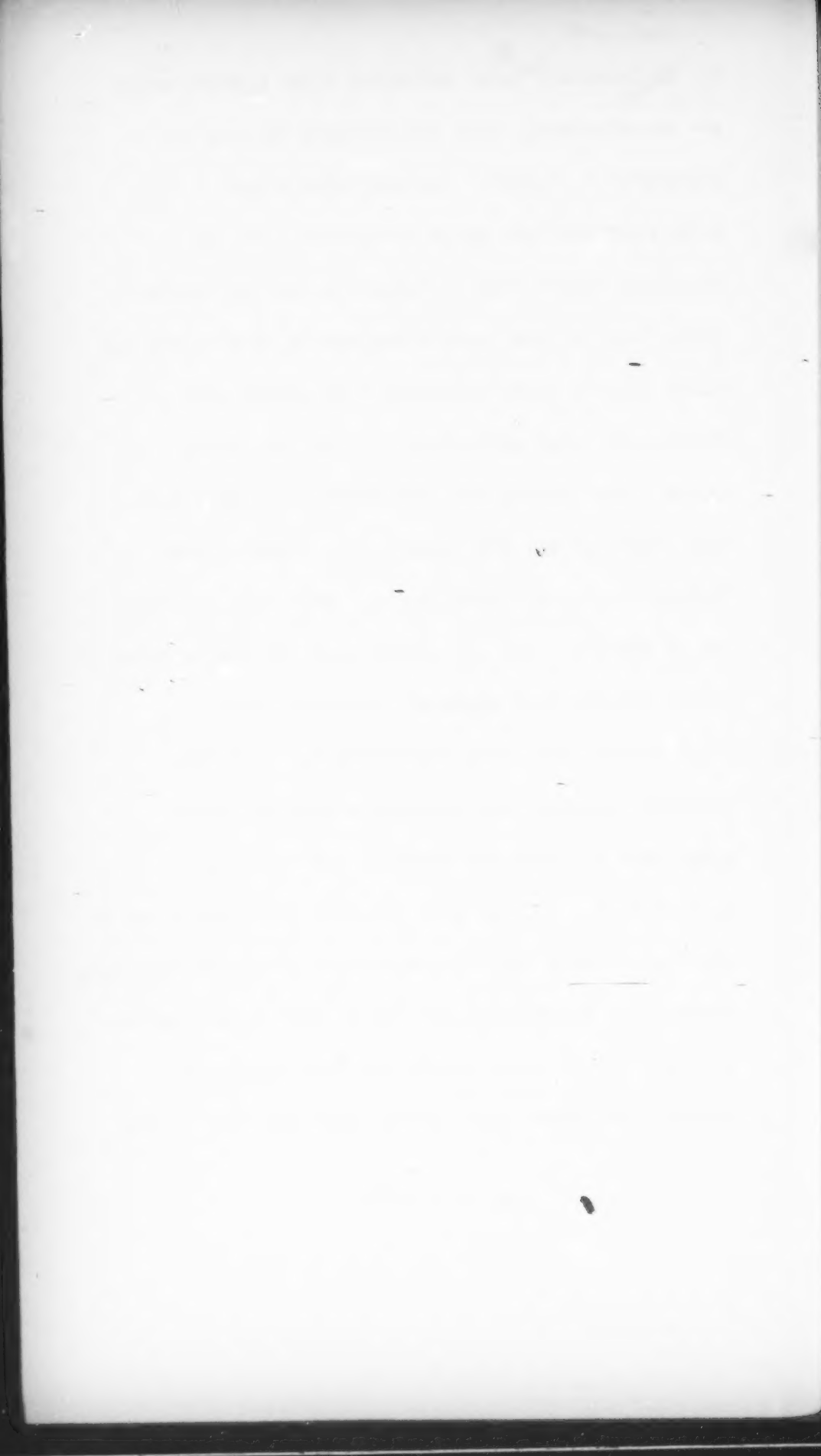
MEMORANDUM OPINION

ROSENBERG, DISTRICT JUDGE

The defendant, Robert Woods, has filed two separate motions dated January 3, 1989. The first motion is a Motion to Reconsider or Stay the Requirements Set Forth in the Order of December 22, 1988 and the second is a Motion for a New Trial, Motion to Alter or Amend Judgment and Motion to Amend Findings. The first motion was entered by attorney Charles F. Scarlata representing defendant Woods and the second was entered by attorney John



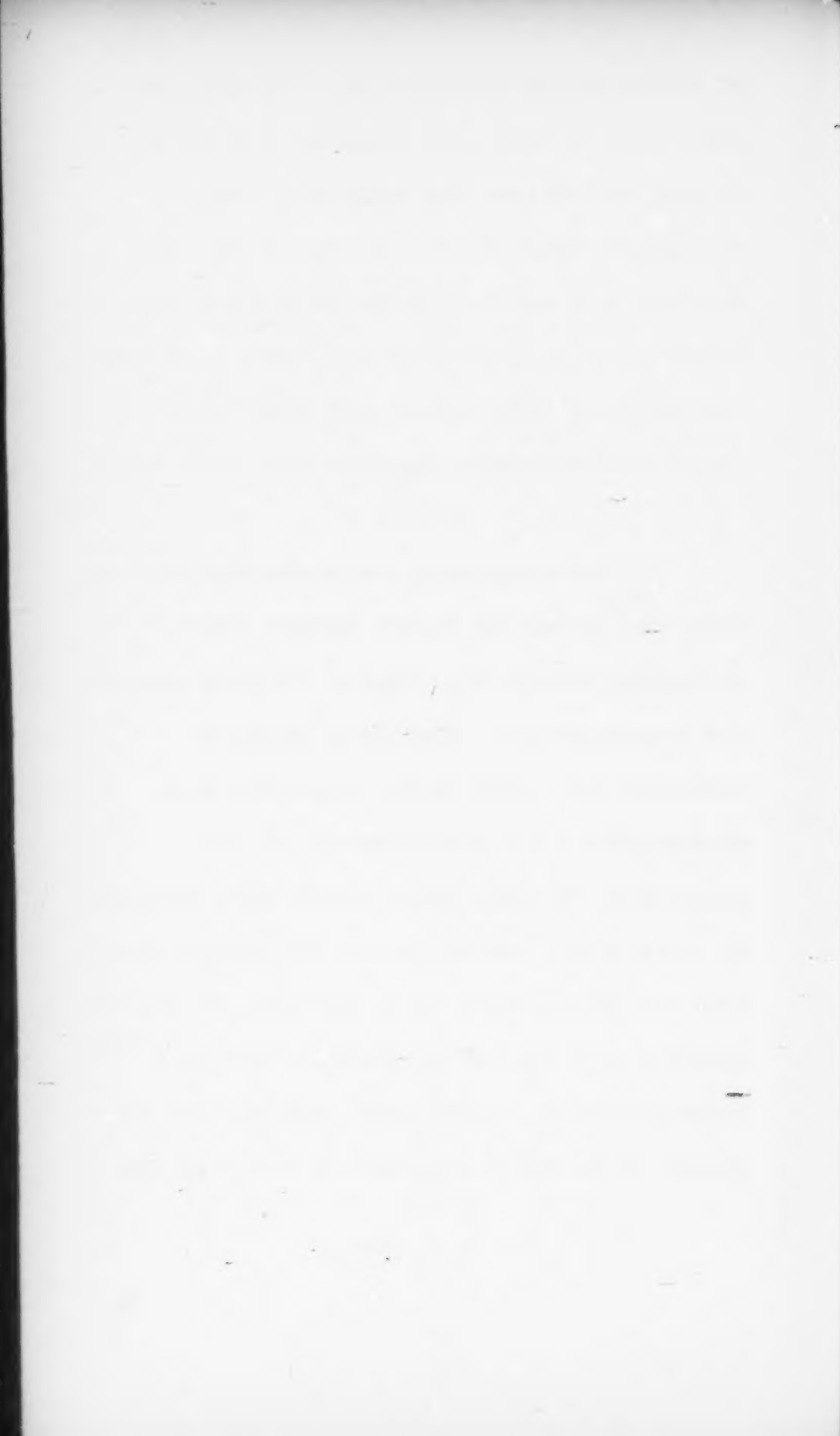
M. Silvestri who entered his appearance as co-counsel for defendant Woods on January 3, 1989. After thorough examination of both motions, it is obvious that the attack is being made from two sides and averments are made in each which are unsupported when one examines the opinions filed in this case, the first on October 1, 1987 and the second on December 22, 1988, the transcript of testimony, and the record as a whole. It is from all of this that this court has spared neither the plaintiff nor the defendants and has called spades as spades whether they applied to the defendant or to the plaintiff. From all of the evidence as a whole, there is an abundant foundation to base the Findings of Fact and Conclusion of Law that were made in the opinion dated December 22, 1988 and in the Order





of Court which follows it. It will be seen that a thorough examination of all of the witnesses was made and was explained upon which the court had the ability and authority to make findings based upon credibility and that this was the duty of this court and that this court meticulously carried out that duty.

The complaint of these motions is that the Order of Court denies the defendant Woods his rights of free speech and association. But this court's December 22, 1988 Order prevents the defendants from bombardment of the plaintiff as they were doing when stopped by this court which is no different that one who yells fire in a crowded church or theatre and is not protected by the Constitution. The Constitution has no place to protect miscreants such as the



defendants Woods, Geisler and O'Brian who must be stopped from their actions against the plaintiff, and forced, in the process, to make others whom they have harmed whole.

The conclusions in these motions are so lacking in support upon reading of the record as a whole, both motions will, therefore, be denied.



UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In re

)

Case No. 87-1851  
INVOLUNTARY

JOSEPH E. HUDAK  
INVOLUNTARY

)

)

EX PARTE MOTION FOR A TEMPORARY  
RESTRAINING ORDER

COMES NOW Joseph E. Hudak, pro  
se, and makes this EX PARTE MOTION FOR A  
TEMPORARY RESTRAINING ORDER, in support  
of which he represents as follows:

1. Michael S. Geisler was one of  
the attorneys of the law firm Joseph E.  
Hudak & Associates. Geisler acted as  
counsel to Hudak on the involuntary  
bankruptcy filed against Hudak at the  
above number and discussed with Hudak all  
matters related to the case and advised  
Hudak on the case.



2. Michael S. Geisler also handled a large number of cases for the Hudak law firm and had access to all client files of the Hudak law firm.

3. Michael S. Geisler also handled all of the accounts payable for the Hudak law firm.

4. Contractually and ethically, Michael S. Geisler is bound to maintain the confidentiality of all of the above matters.

5. On or about Sunday August 9, 1987, Michael S. Geisler entered the Hudak law firm offices and removed his belongings and many of the files for which he was responsible. On information and belief, Geisler also removed complete





lists of all Hudak clients and confidential details of clients files.

6. Geisler gave to Hudak no notice that he was to defect from the Hudak law firm; on the contrary, even on Saturday August 8, 1987, the day before he was to defect, Geisler met with Hudak, discussed confidential matters with Hudak, and caused Hudak to rely on Geisler's continued protection of confidences and Geisler's continued services.

7. Sometime thereafter, Michael S. Geisler began working for the Robert Woods, the husband of petitioner in this case.

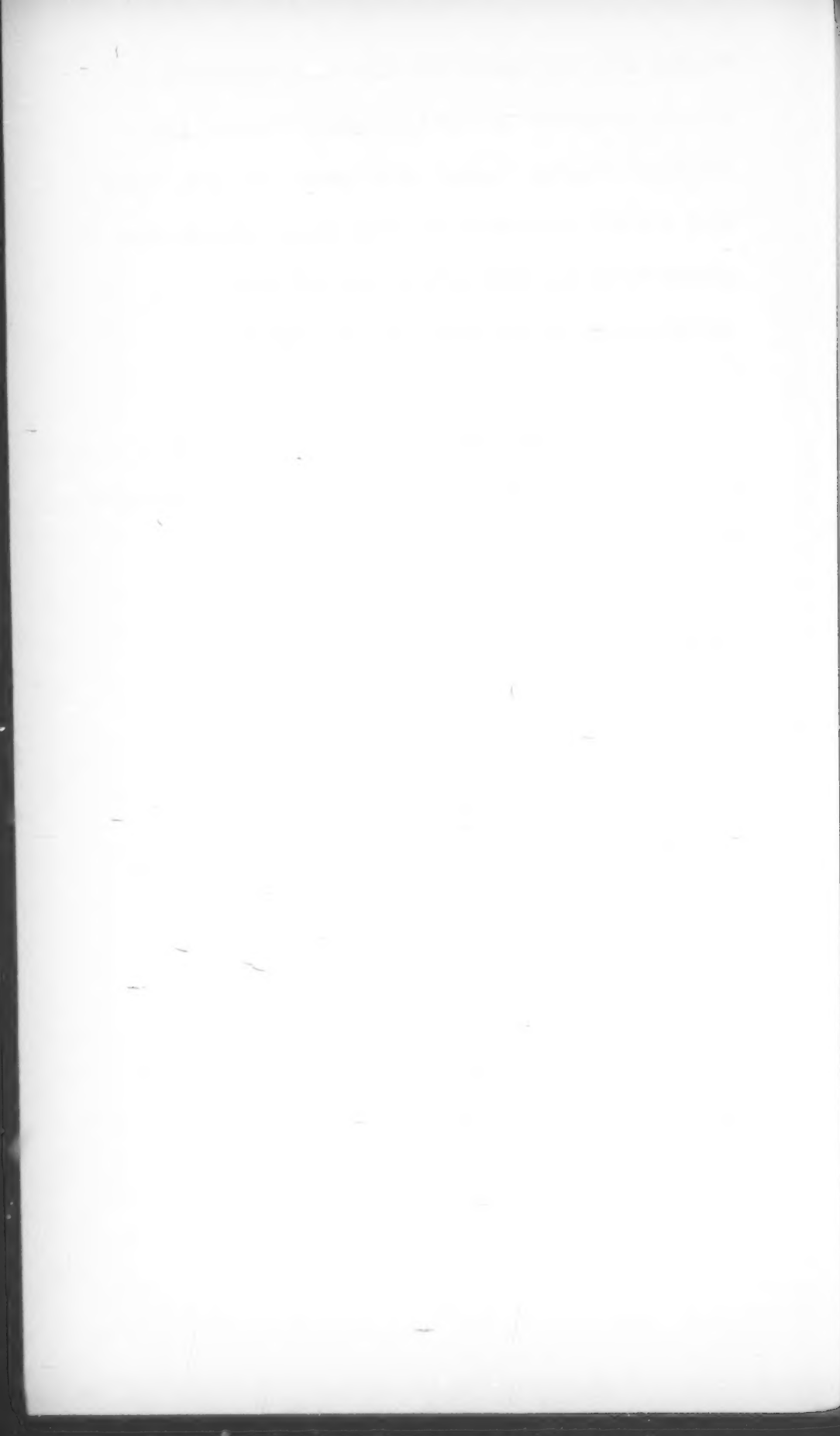
8. On information and belief, Michael S. Geisler has revealed to Robert



Woods all or many of the confidences of Hudak related to this case, including Geisler/Hudak legal analyses of the case and facts related to the case which are protected by the attorney-client relationship as well as by contract.

9. On information and belief, Michael S. Geisler has revealed to Robert Woods client lists and particulars of client files, including unlisted telephone numbers of clients, of the Hudak law firm.

10. On Saturday, September 12, 1987, Robert Woods himself telephoned a client of the Hudak law firm for whose case Michael S. Geisler had been solely responsible. Robert Woods also telephoned the client's mother, sister-in-law, and brother. Robert Woods



revealed to all of these people confidential matters from the client's file which the client herself did not wish her relatives to know. Robert Woods further stated to the client herself that Joseph E. Hudak was a fraud, that Hudak had embezzled money, and that the woman's case would never be filed.

11. On information and belief, Robert Woods himself telephoned numerous other clients of the Hudak law firm and engaged in similar conduct.

12. On Monday, September 14, 1987, an individual identifying himself as a "Richard O'Brien" or a "Richard Bryant" and giving a return telephone number of 381-1194 began systematically telephoning all of the clients of the Hudak law firm. Some of these clients



have unlisted telephone numbers that could have been obtained only from the confidential files of the Hudak law firm. Many of the clients have become extremely upset and some have stated that the person calling has revealed to them knowledge of confidential matters contained in their legal files.

13. The above individual is further stating that he is taking a survey of clients of the Hudak law firm, and, both directly and by innuendo, suggesting impropriety and illegitimacy in the Hudak law firm and suggesting that the Hudak law firm clients should file disciplinary complaints against Joseph E. Hudak.

14. On information and belief, this systematic harrassment and slander

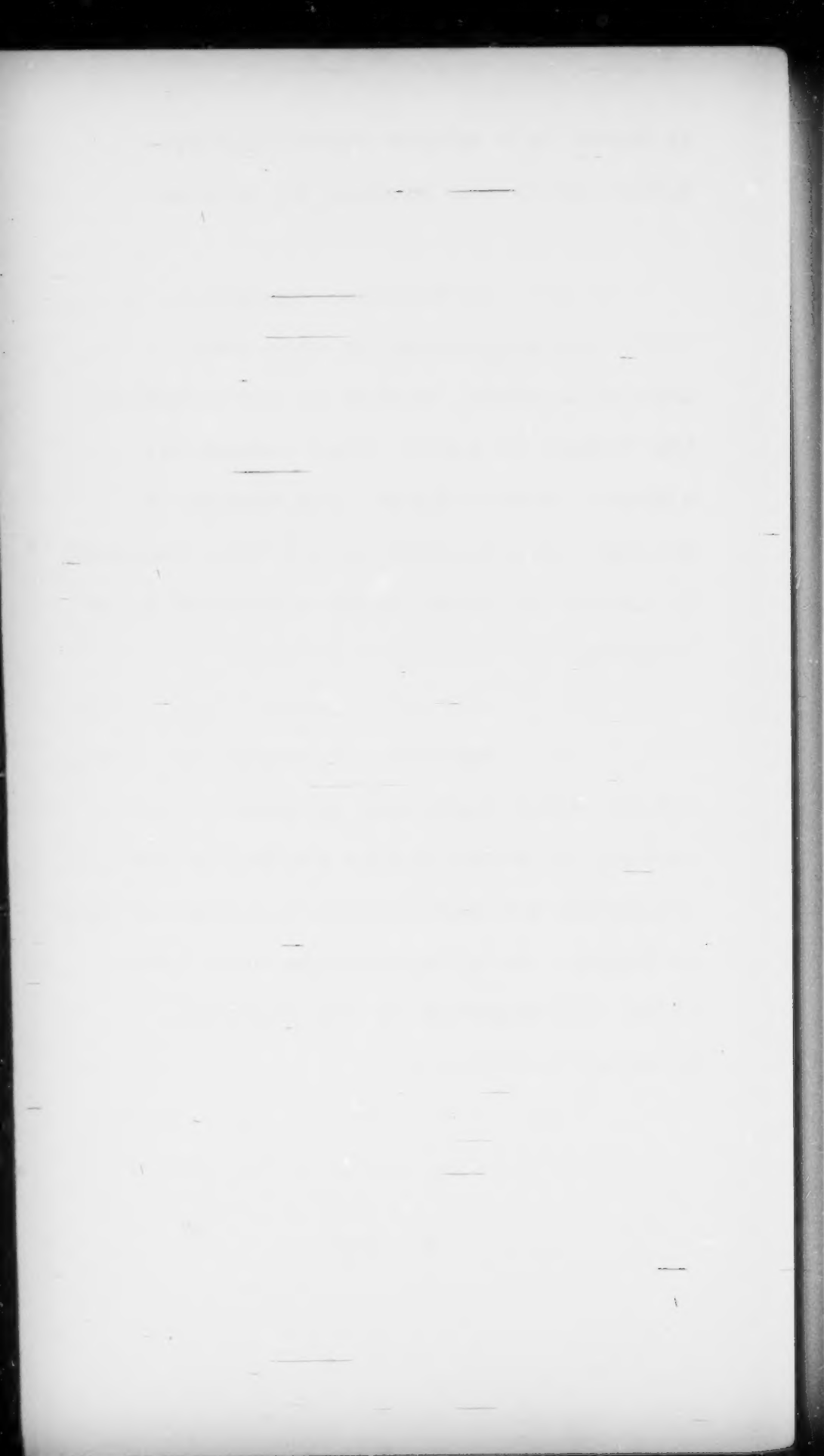




of Hudak is a scheme controlled by Robert Woods and Michael S. Geisler.

15. On Tuesday, September 15, 1987, the petitioner in this case, Geraldine Woods, stated to her daughter, the fiance of Hudak, that indeed her husband, Robert Woods, and Michael S. Geisler were engaged in activity designed to result in Hudak being disbarred as an attorney.

16. Further, on August 18, 1987, Robert Woods committed an assault and battery on Hudak and on August 23 1987, attempted yet another assault and battery on Hudak. Criminal charges have been filed and accepted by the District Attorney's Office.



17. Further still, on September 9, 1987, Robert Woods committed another assault and battery, this time on a deputy constable employed by Hudak to subpoena Robert Woods and Geraldine Woods for the September 11, 1987 hearing on Hudak's motion to dismiss. Criminal charges have been filed and accepted by the District Attorney's Office. Robert Woods, however, has filed a report with the Pittsburgh Police in which he states that the deputy constable was attempting a sexual assault on his wife and that he, Woods, has seen the deputy constable loitering about the Shadyside district of Pittsburgh and he, Woods, believes that the deputy constable might be the "Shadyside rapist." Finally on this, the deputy constable states that through a third party Robert Woods has sent a message that serious physical harm will



result if the deputy constable again attempts to subpoena G. Woods, the petitioner in this case.

18. Robert Woods has committed further acts of harrassment against Hudak, Hudak's mother and brother, and Hudak's fiance, Wood's daughter. These include obscene telephone calls, threats of lawsuits, interference with employment, and slanderous statements against Hudak.

19. Continuation of any of the above described activities will cause immediate, irreparable, and unjustified harm.

WHEREFORE, Joseph E. Hudak, prose, requests that the Court issue ex



parte a temporary restraining order 1) to prevent Michael S. Geisler from revealing, directly or indirectly, any further information related to the involuntary bankruptcy petition filed against Hudak; 2) to prevent Michael S. Geisler from revealing any further information about Hudak's business, his clients, his client files, or other facts of any kind obtained from his employment with the Hudak law firm; 3) to prevent Robert Woods, Michael S. Geisler, and any persons working therefor from the above described acts and other acts designed to harrass, interfere with, or injure Hudak and parties associated or related to Hudak.

Respectfully submitted,

---

Joseph E. Hudak





VERIFICATION

I, JOSEPH E. HUDAK, have read the foregoing EXPARTE MOTION FOR A TEMPORARY RESTRAINING ORDER.

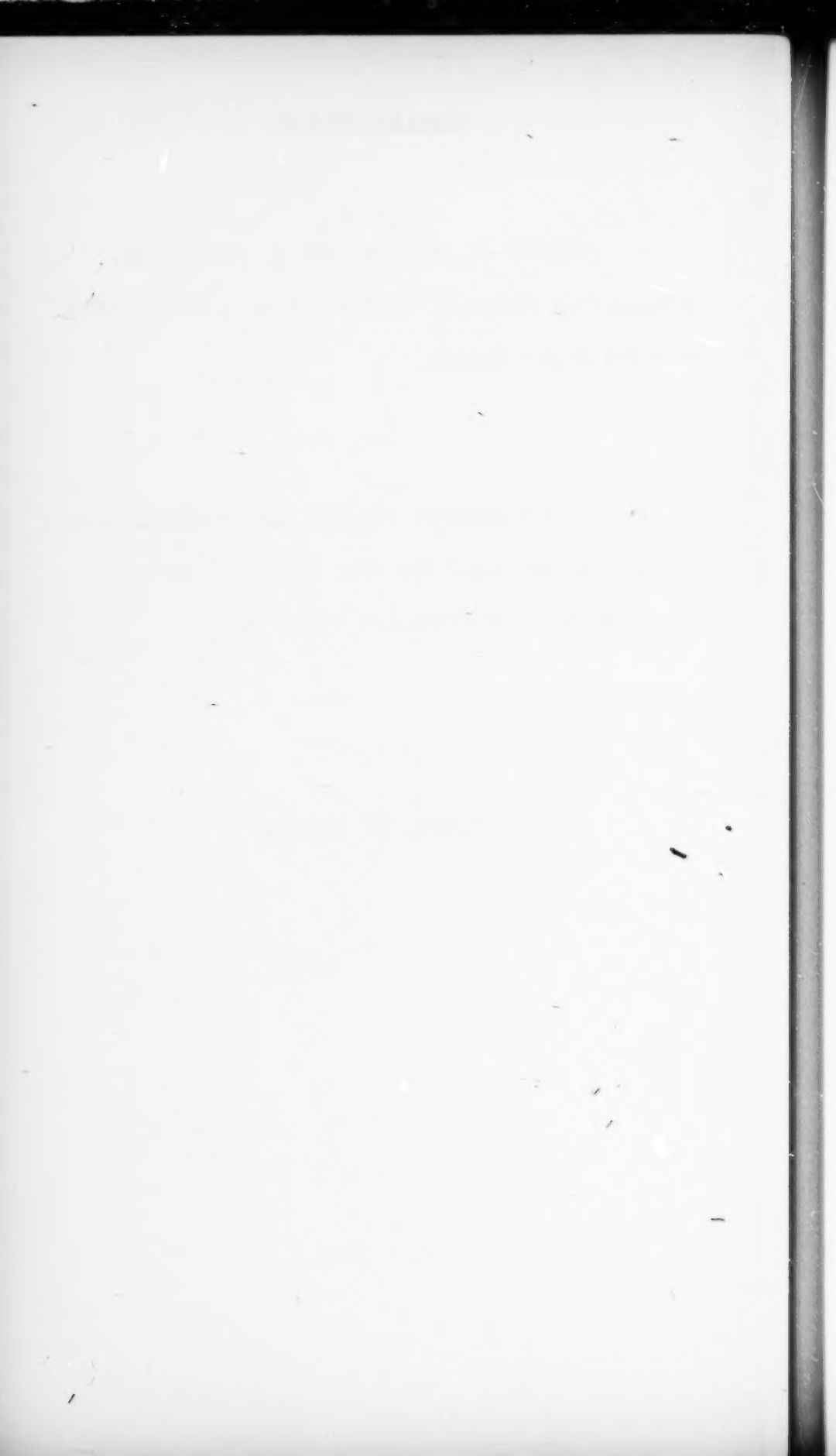
This statements contained therein are true and correct to the best of my knowledge, information and belief.

---

JOSEPH E. HUDAK

---

DATE



UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDAK

)  
)  
)

vs. Civil Action No: 87-1999

ROBERT WOODS, MICHAEL S.  
GEISLER and RICHARD  
O'BRIAN

)  
)  
)

CONSENT ORDER

AND NOW COME Joseph E. Hudak,  
Esquire, pro se, and Robert Woods,  
Michael S. Geisler, and Richard O'Brian,  
by their attorney, Yaier Y. Lehrer,  
Esquire, and stipulate as follows:

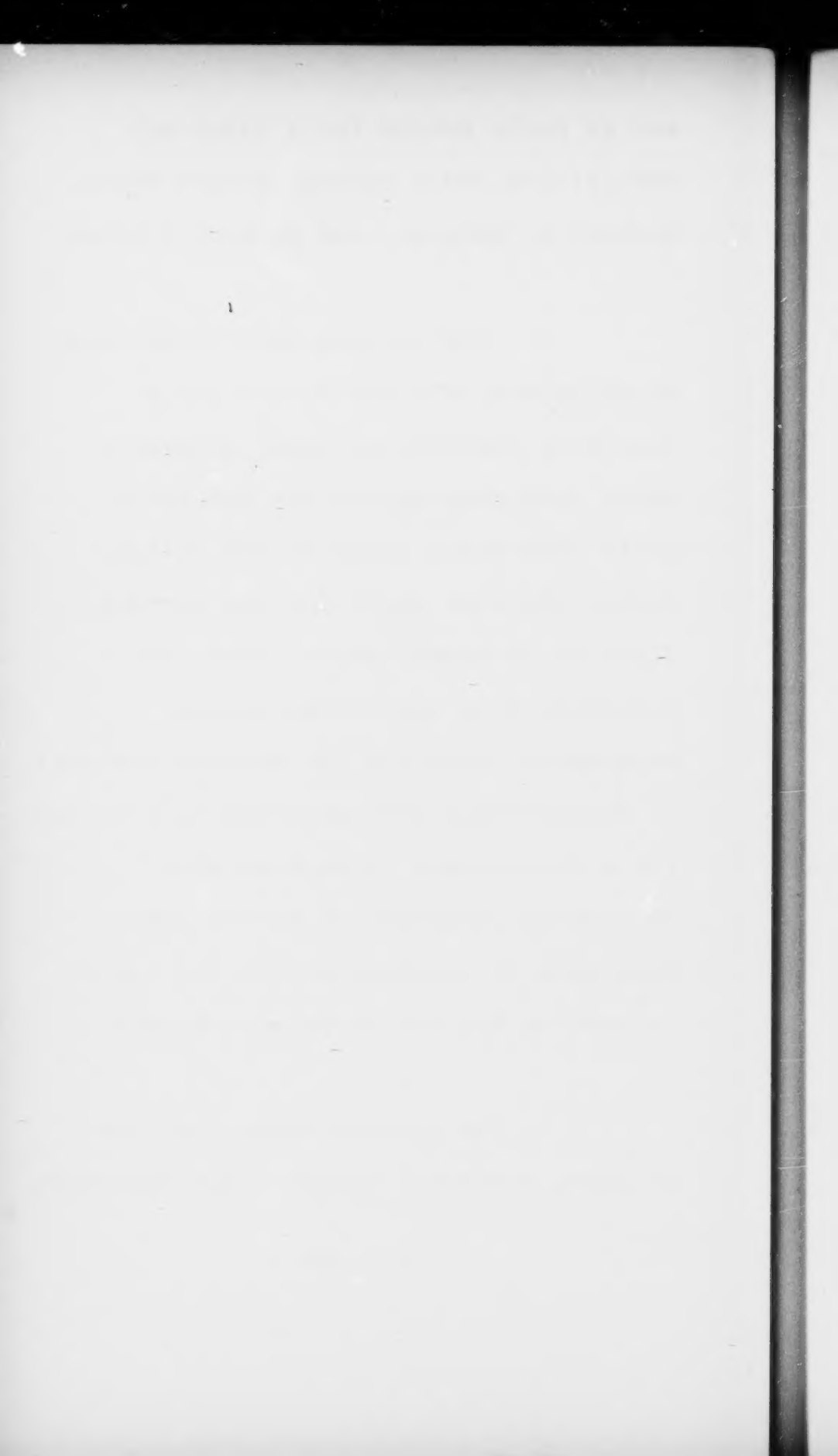
1. On September 18, 1987, nunc  
pro tunc September 16, 1987 by Order of  
Judge Louis Rosenberg, in The United  
States Bankruptcy Court for the Western  
District of Pennsylvania, at Case no. 87-  
1851 INVOLUNTARY, Joseph E. Hudak filed



and Ex Parte Motion for a Temporary Restraining Order against Robert Woods, Michael S. Geisler, and Richard O'Brian.

2. The parties have agreed and do stipulate that the Motion for a Temporary Restraining Order presently being conducted before the Honorable Louis Rosenberg, Judge of the United States District Court for the Western District of Pennsylvania, shall be withdrawn from the United states Bankruptcy Court for the Western District of Pennsylvania and converted to a Motion for a Preliminary Injunction with continuing jurisdiction before Judge Rosenberg in accordance with the law of injunction and the facts of the case.

3. The parties agree that the evidence presented before Judge Rosenberg



in the Motion for a Temporary Restraining Order is evidence upon which Findings of Fact and Conclusions of Law may be based in spite of the fact that the evidence was not closed and that there was additional testimony which the parties could present and the Court did not hear.

4. The parties have agreed and do consent to an Order directing the following. . .

11. Woods and O'Brian, and agents, servants, employees or associates thereof, shall have no further contact whatsoever with the clients of Hudak for the purpose of those clients' legal matters and shall in no way engage in the practice of law or otherwise interfere with the business of Hudak.





12. Hudak, and agents, servants, employees or associates thereof, shall have no further contact with Woods, Woods or the wife of Woods. Hudak, however, may contact Attorney yaier Y. Lehrer to present bills owed Hudak by Woods or to discuss with Lehrer matters related to cases or problems between Hudak and Woods.

13. Woods, and agents, servants, employees or associates thereof, shall have no further contact with Hudak, except to discuss legal matters which Hudak has handled for Woods or the wife of Woods.

14. No bond shall be required of any party and each party waives the



requirement of a bond from each other party.

15. Nothing in the Order shall prohibit any party from pursuing any legal remedy for which he is entitled under the law.

16. The prohibition against contact between Woods and Hudak shall take place for three years.

17. This stipulation shall become effective as of the filing of this stipulation from Order of Court

Consent:

---

Yaier Y. Lehrer 9/30/87

---

Joseph E. Hudak 9-30-87



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDAK,

Plaintiff,

v.

CIVIL ACTION NO. 87-1999

ROBERT WOODS, MICHAEL S.

GEISLER, and RICHARD

O'BRIAN,

Defendant.

ORDER

AND NOW, to-wit, this 1st day of  
October, 1987 in accordance with the  
Stipulation for an Order of Court  
accepted by the parties and previously  
filed in this case, it is hereby ordered  
and directed that the agreement with its  
detailed acceptance of obligations and  
restrictions as contained therein shall  
govern the parties accordingly to its  
tenor and shall be binding upon the  
parties in this action pursuant thereto,  
their agents, representatives and



assignees and upon all persons in active concert or participation with them who receive actual notice of this order of court by personal service or otherwise; and shall commence until the purposes of the Stipulation and this injunction have been fulfilled; and it shall not be necessary for any of the parties to file a bond unless in the future by resort to this court of violation of this order when demands for bonds may be made by a complaining party or by any other person or persons responsible for any injury or harm caused by a violation of the injunctive mandate or its restrictions; and the costs of the case shall be borne equally by the parties of this action.

BY THE COURT:

ROSENBERG, J.





IN THE UNITED STATES BANKRUPTCY COURT FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: JOSEPH HUDAK

87-1851

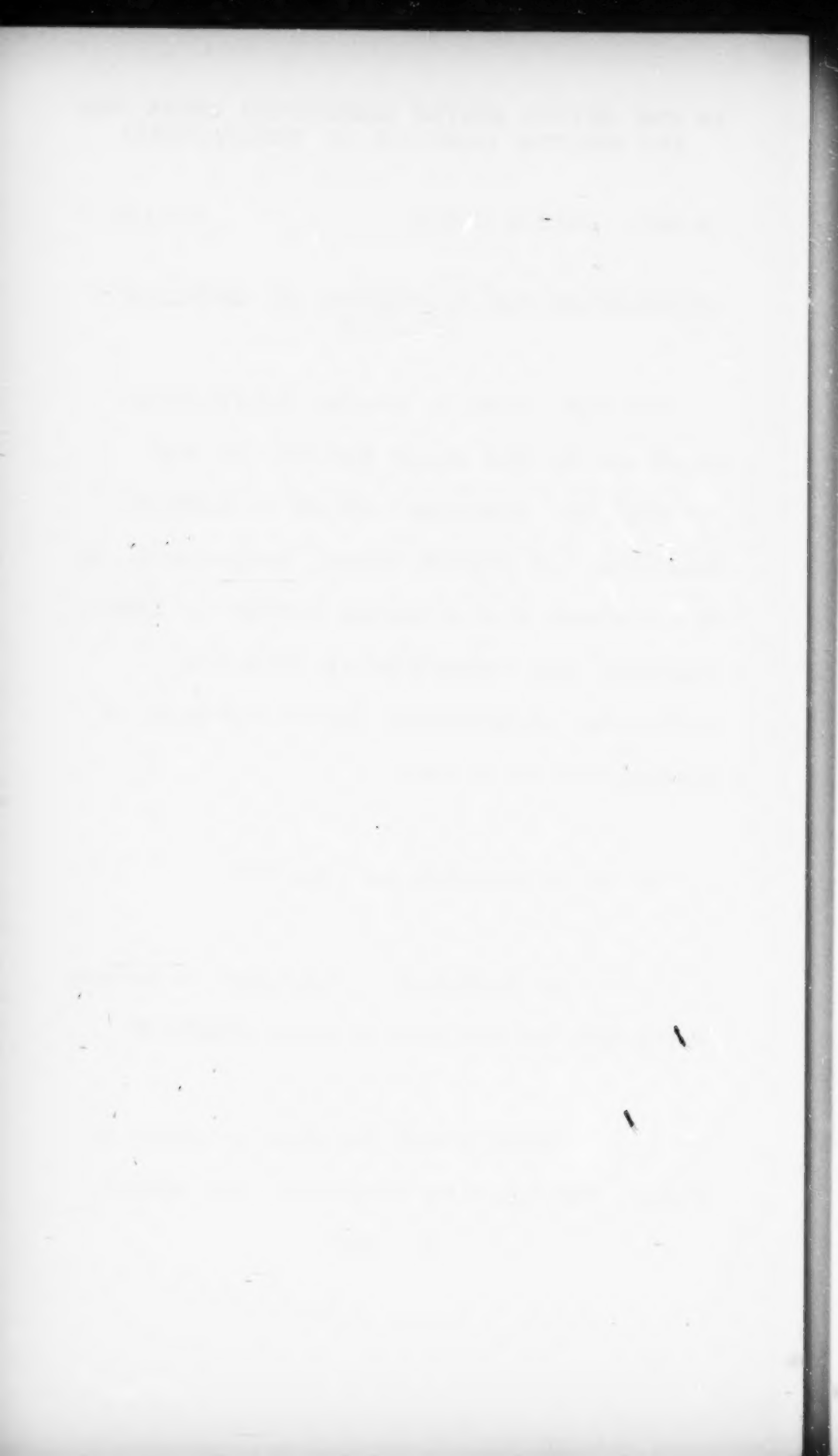
STIPULATION FOR WITHDRAWAL OF BANKRUPTCY  
PETITION

AND NOW, come G. Woods, Petitioning  
Creditor in the above matter, by and  
through her attorney, YAIER Y. LEHRER,  
Esquire, and JOSEPH HUDAK, Respondent, by  
and through his attorney ROBERT O. LAMPL,  
Esquire, and respectfully file the  
following stipulation for withdrawal of  
Bankruptcy Petition:

IT IS STIPULATED AS FOLLOWS:

1. The Bankruptcy Petition is hereby  
withdrawn by the Petitioning Creditor.

2. JOSEPH HUDAK forever releases G.  
WOODS, Petitioning Creditor, her agents,



servants and/or employees from any  
liability for damages under Section 303  
of the Bankruptcy Code.

---

Robert O. Lampl, Esquire  
Attorney for Joseph Hudak

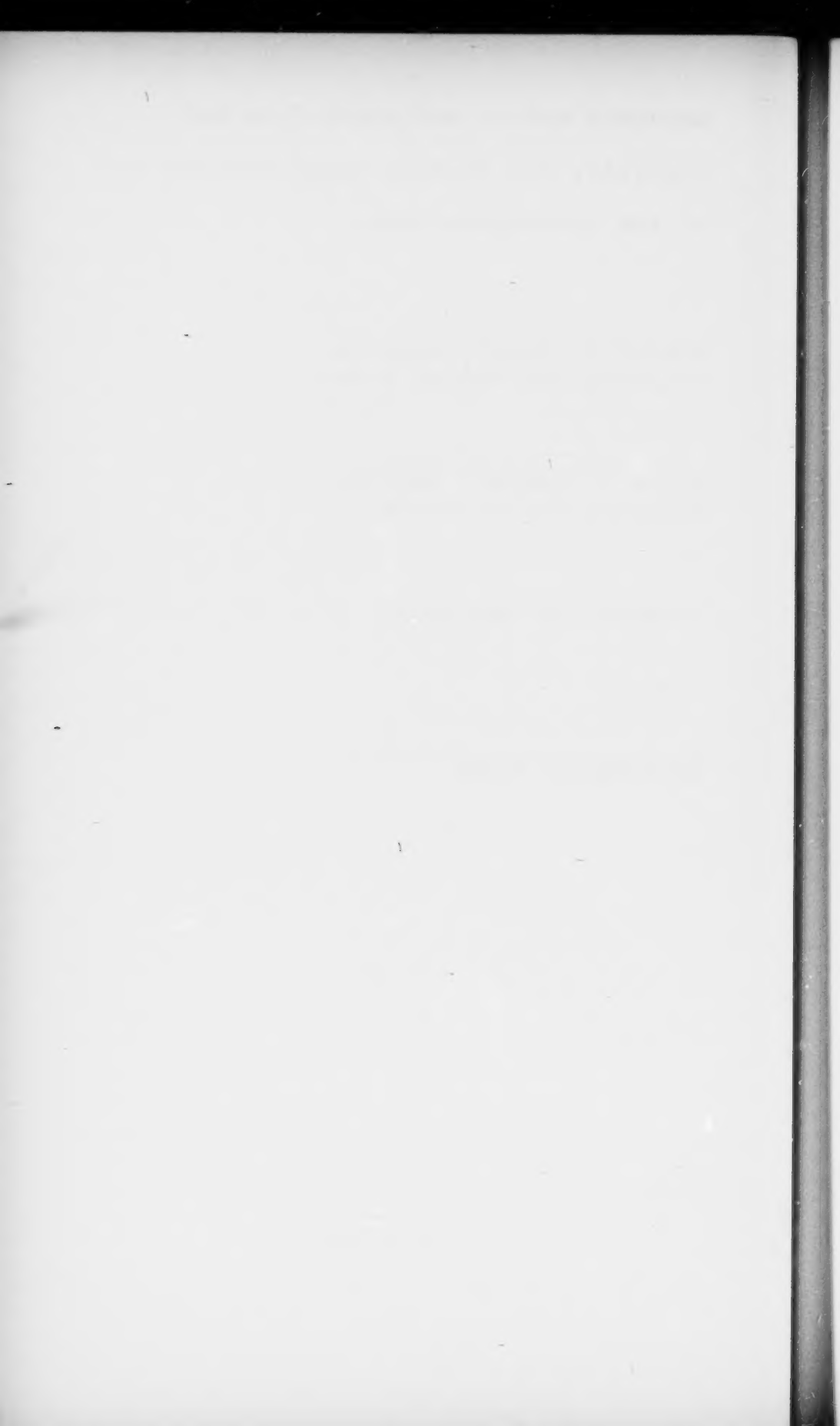
---

Yaier Y. Lehrer, Esquire  
Attorney for G. Woods

APPROVED BY THE COURT

---

Bankruptcy Judge



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDAK, )  
 )  
 Plaintiff )  
 )

v. CIVIL ACTION NO. 87-1999

ROBERT WOODS, MICHAEL S. )  
GEISLER and RICHARD )  
O'BRIAN )  
 )  
 Defendants )  
 )

MOTION FOR CONTEMPT

The plaintiff, Joseph E. Hudak, an attorney acting on his own behalf, files this motion for contempt, in support of which he represents as follows:

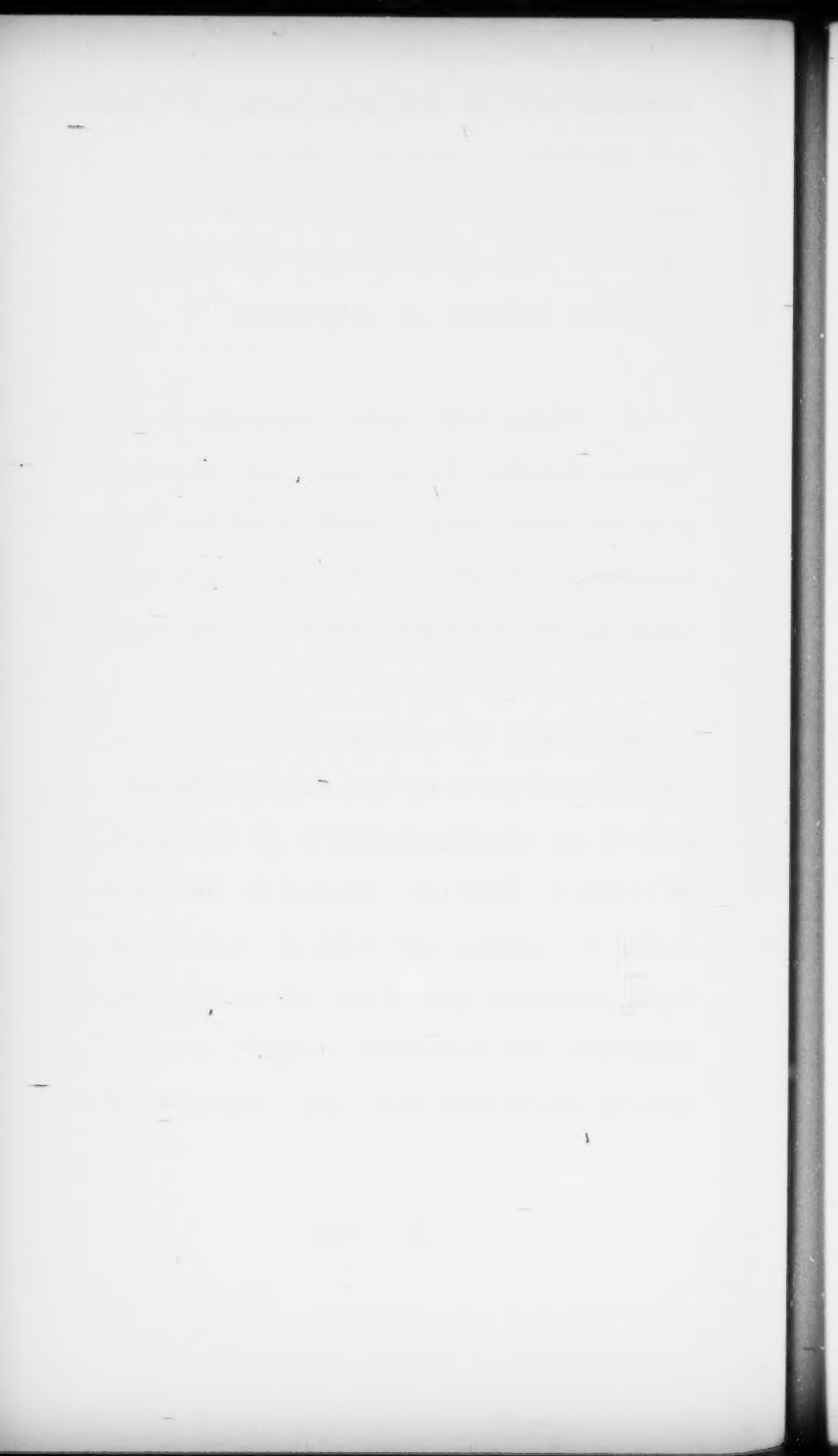
1. On October 1, 1987, this Court entered an order that the stipulation for an order of curt accepted by the parties and previously filed in this case was binding on the parties, their agents,



representatives and assignees, and upon all persons in active concert or participation with the parties who received actual notice of the order by personal service or otherwise.

2. Since that date, defendants Robert Woods, Michael S. Geisler and Richard O'Brian have nearly destroyed the life, business and career of plaintiff, and have caused enormous harm to the public.

3. Also, in active concert or participation with the parties or as agents or representatives of the parties, William C. Bartley, Edward A. Burkardt, Yaier Y. Lehrer and John M. Silvestri have violated the order on an incessant, habitual and systematic basis, have nearly destroyed the life, business and





career of plaintiff, and have caused enormous harm to the public.

4. All of the persons named in paragraph 3 above have received actual notice of the stipulation and order by personal service.

#### COUNTS AGAINST ROBERT WOODS

1. Filing and pursuing of False Disciplinary Board Charges in Violation of Paragraph 11 of the Stipulation and Order of Court

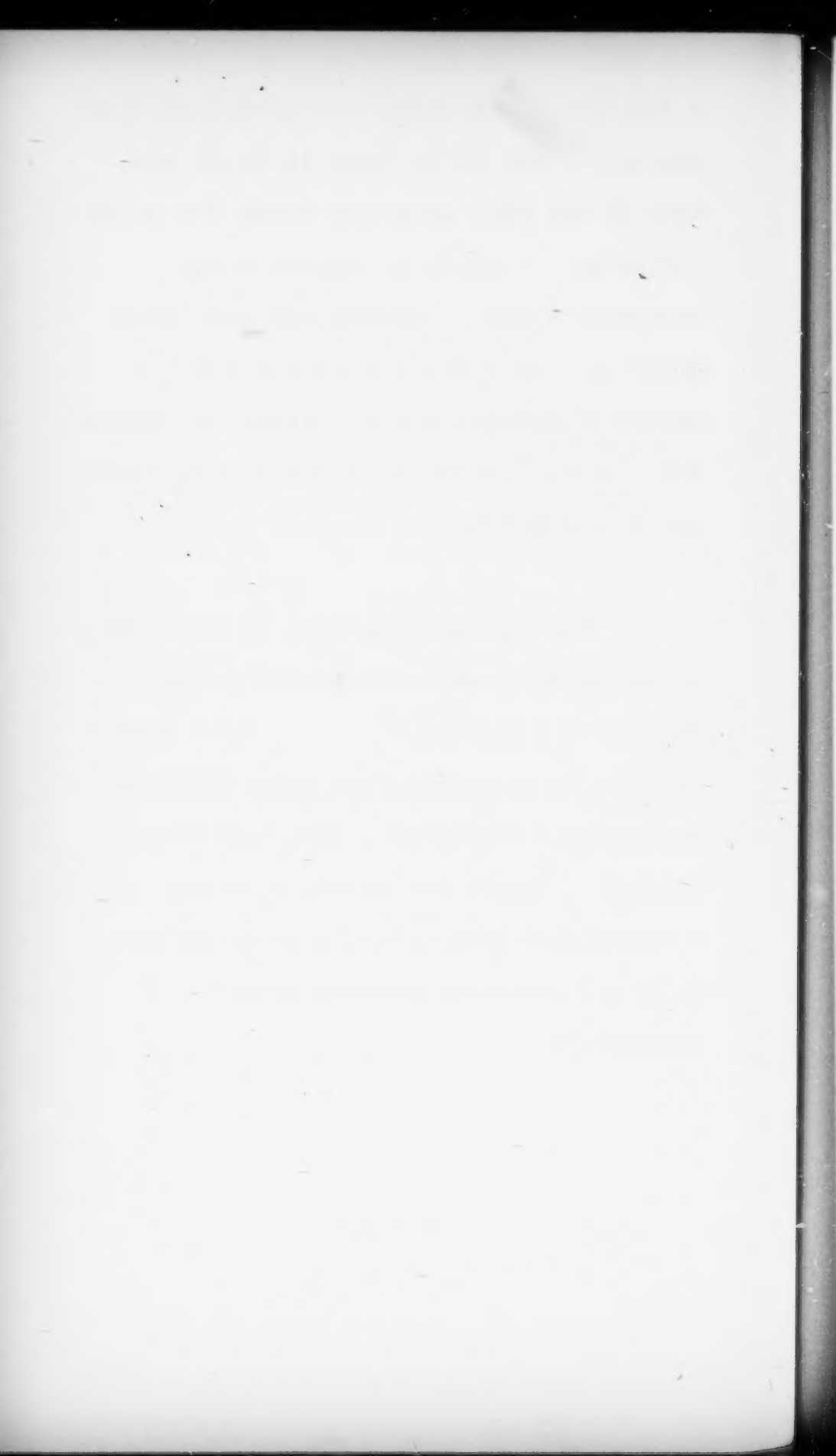
5. Robert Woods has filed and is still pursuing against Hudak at least four (4) false complaints to the Pennsylvania attorneys' disciplinary board.

6. The first complaint alleges that Woods or Woods's wife delivered to Hudak

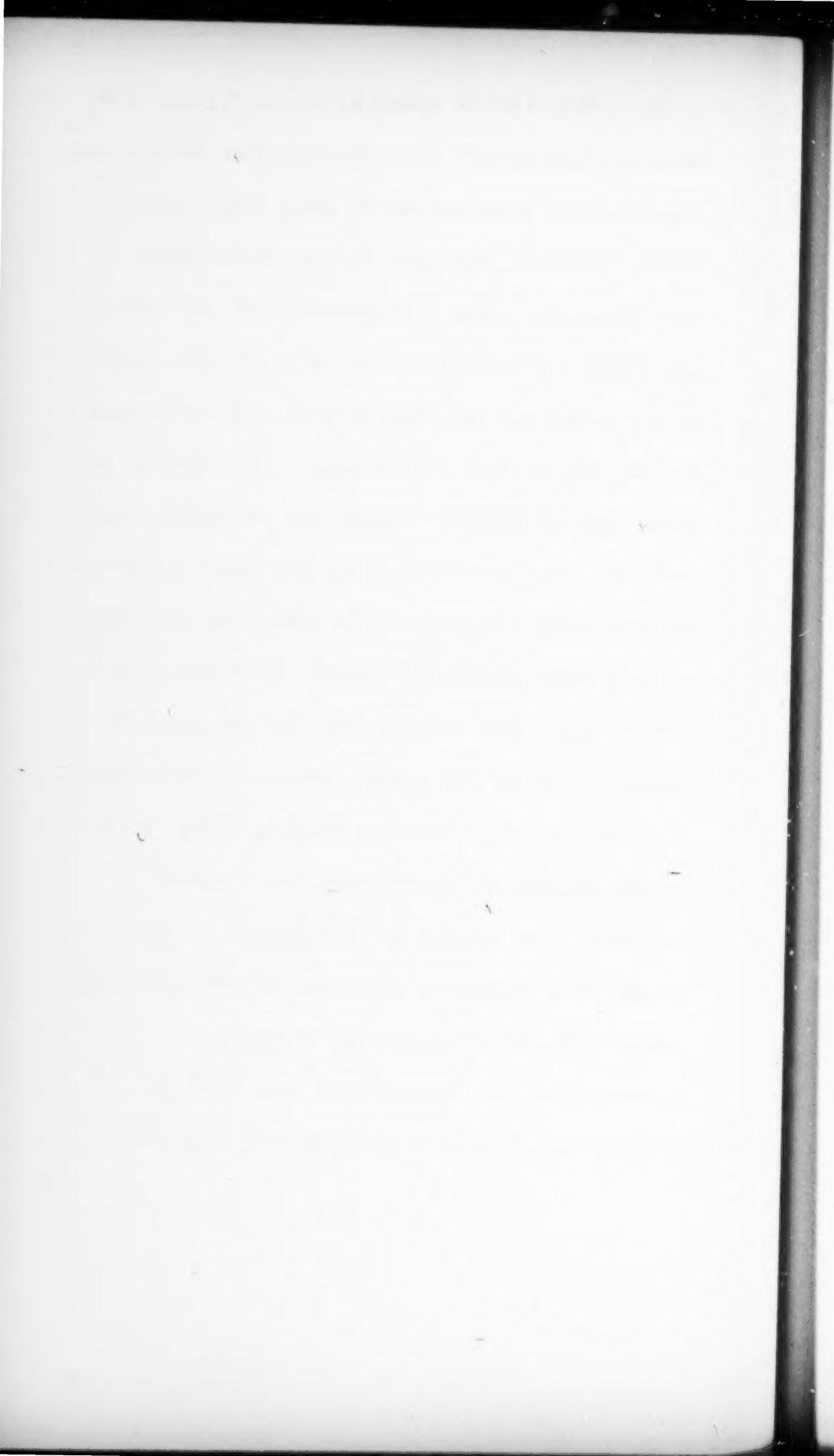


a \$30,000 check under the condition that the money was to be held in trust and that Hudak then used the money for other purposes. This is a blatant false accusation but it nonetheless has taken greatly from Hudak's time and has severely damaged and continues to damage Hudak's reputation with the disciplinary board and others.

7. The second complaint alleges that Hudak delayed delivery of and attempted to seal a \$16,000 cashier's check made payable to a person from whom Woods had purchased a mortgage. This too is a blatantly false accusation but has nonetheless taken greatly from Hudak's time and severely damaged Hudak's reputation.



8. The third complaint involves the Wesley Fox trust account matter which was repeatedly discussed at the September, 1987, hearing before Judge Rosenberg in the present case. Pursuant to an escrow agreement signed by Fox and Woods, and with Hudak as escrow agent, \$2,1000 was to be deposited in trust. If Fox later paid the property taxes on certain real estate, the money was to be paid to Fox; at any time, however, Woods could elect to pay the property taxes himself, in which case the money was to be paid to Woods. In early June, 1987, Hudak was to join Woods and Wood's family, who were vacationing at Disneyworld. Hudak removed the money as directed. Later, after the dispute between Woods and Hudak began, Woods worked vigorously, attempting to induce Fox to file a disciplinary board complaint against



Hudak. When Woods discovered, however, that Hudak had in fact paid Fox the \$2,100 plus interest, and when Fox refused to file a disciplinary board complaint against Hudak, Woods filed his own complaint alleging that he had not directed Hudak to remove the money. This is another blatant lie on the part of Woods, but the disciplinary board has elected to prosecute Woods's allegations of wrongdoing as to both Fox and Woods.

9. Woods's fourth complaint alleges that Hudak failed to pursue at least three legal matters entrusted to Hudak by Woods. One of these, Woods v. Edgar, was an appeal to the Pennsylvania Superior Court which Hudak told Woods he would not pursue because it was utterly abusive and without merit. Another, Greenapple v. Woods, was a Federal Court matter which





from the very beginning Hudak refused to handle and in which Woods defaulted and now needs an excuse to justify the default. The third, Craig Coal Co. v. Romani, was a case on which Woods explicitly fired Hudak but in which Woods against missed a deadline and needs an excuse. Wood's allegations of neglect on the part of Hudak in regard to these cases are blatant lies but nonetheless have taken greatly from Hudak's time and severely damaged Hudak's reputation.

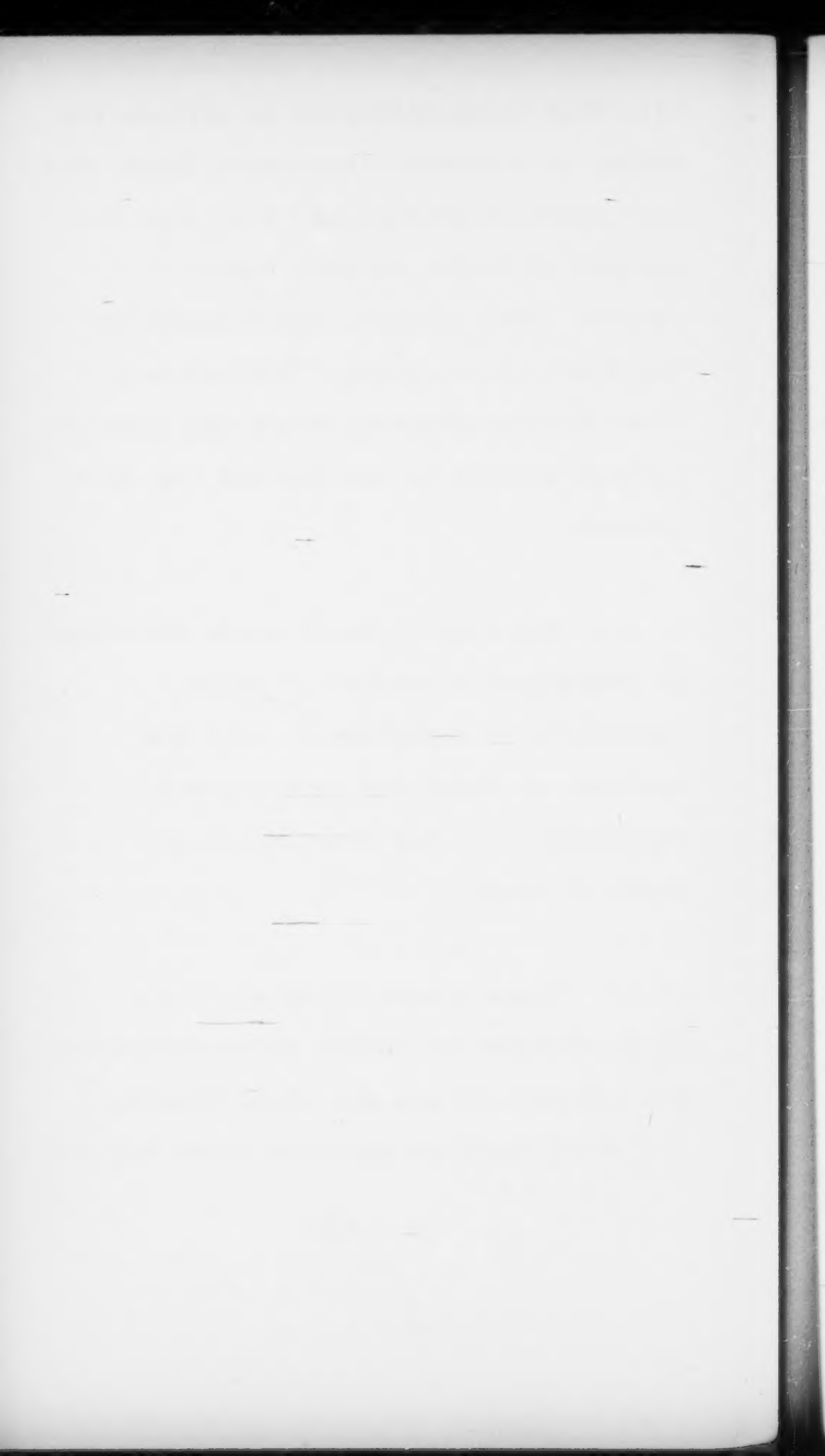
10. Woods has also made and continues to make countless informal accusations against Hudak to the disciplinary board. These include statements that Hudak has committed all sorts of crimes, that Hudak has stolen money and property, that Hudak is a rapist, that Hudak is a drug dealer, a drug addict, an alcoholic, and mentally



ill, that Hudak attempted to arrange the murder of a common pleas court judge, and that Hudak is attempting to arrange the murders of Woods, Woods's family, various local lawyers, and a member of the disciplinary board. Ludicrous as these accusations are, Woods has induced various persons to corroborate his false charges.

11. The activities of Woods described in paragraphs 5 through 10 above constitute an interference with the business of Hudak and thus violate paragraph 11 of the Stipulation and Order of Court.

12. Woods's activities of filing false charges and making false statements and accusations are not legal remedies for which Woods is entitled under the law



and thus are not permitted by paragraph 15 of the Stipulation and Order of Court.

II. Practicing Law in Violation of Paragraph 11 of the Stipulation and Order of Court.

13. Since October 1, 1987, Robert Woods has maintained steady contact with one Edward A. Burkardt, an assistant disciplinary counsel at the disciplinary board.

14. Woods has acted virtually as an investigator for Burkardt, investigating every of Hudak's business and personal life, and providing Burkardt with the fruit of his "investigation."

15. In many instances, Woods has supplied Burkardt with false information,



ambiguous information used to substantiate erroneous conclusions, and actual false, fabricated "evidence."

16. Three attorneys employed by Woods, Michael S. Geisler, Yaier Y. Lehrer, and John M. Silvestri, have actively aided Woods in the activity described in paragraphs 13 through 15 above.

17. Woods has not only acted as an investigator for Burkardt and fabricated evidence at the request of Burkardt, but has also instigated and encouraged Burkardt.

18. The activities described in paragraphs 13 through 15 and paragraph 17 above constitute "practicing law" by



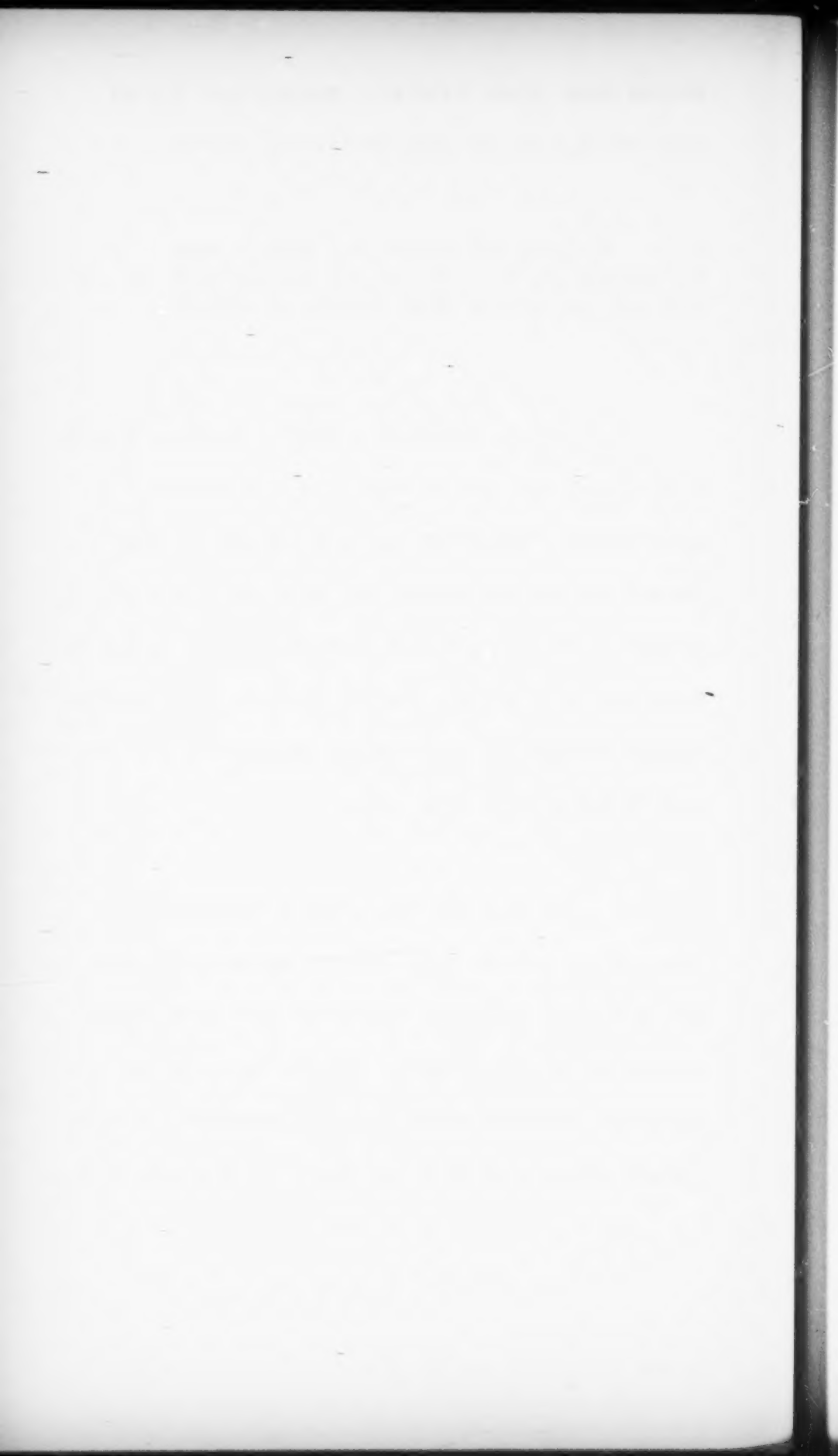


Woods and thus violate paragraph II of the Stipulation and Order of Court.

III. Filing of Abusive, Meritless Lawsuits in Violation of Paragraph 11 of the Stipulation and Order of Court

19. Since October, 1987, Robert Woods has filed at least four (4) abusive, meritless lawsuits against Hudak, all based on false swearing and perjury of Woods. The lawsuits are designed only to harrass and annoy Hudak and do not pursue legal remedies for which Woods is entitled under the law.

20. In one of the above described lawsuits, Woods has named as additional defendants various friends and business associates of Hudak. Woods's claims against theses additional defendants are false swearing and perjury of Woods, are



designed only to harrass and annoy the friends and business associates of Hudak, and do not pursue legal remedies for which Woods is entitled under the law.

21. In addition to the above described barratrous lawsuits woods has filed against Hudak, woods has filed at least four (4) more abusive, meritless lawsuits against Woods's daughter, Sharon Lavelle, who is soon to be married to Hudak.

22. Woods's lawsuits against Sharon Lavelle are based on false swearing and perjury of Woods, are designed only to harrass and annoy, and do not pursue legal remedies for which Woods is entitled under the law. Moreover, the lawsuits against Sharon Lavelle are designed to damage the happiness and



marriage of Sharon Lavelle to Hudak and thus to harm Hudak.

23. Three attorneys employed by Woods, Michael S. Geisler, Yaier Y. Lehrer, and John M. Silvestri, have actively aided Woods in the activity described in paragraphs 19 through 22 above, including the false swearing, perjury, barratry, and harrassment.

24. The activities described in paragraphs 19 through 22 above constitute an interference with the business of Hudak and thus violate paragraph 11 of the Stipulation and Order of Court.

IV. Filing of False Criminal Charges in Violation of Paragraph 11 of the Stipulation and Order of Court



25. Since October, 1987, Robert Woods has made scores of obscene, harrassing telephone calls to his daughter, Sharon Lavelle, Hudak fiance. Some of these calls were to Sharon's home and in these Woods used the vilest obscenities and made the vilest insults. Other calls were made to Sharon's place of employment, where she works as a registered nurse. In these calls, on numerous occasions woods spoke to the director of nursing and other supervisors and stated that Sharon was a drug dealer and drug addict, that Sharon was stealing drugs from the hospital, and that Sharon had killed patients at her last place of employment by giving patients overdoses of drugs. Then Sharon's hospital received a barrage of telephone calls in which the callers





stated that they were calling to arrange drug "pickups" from Sharon Lavelle.

26. Finally, when Woods's telephone abuse became unbearable, Sharon filed telephone harrassment charges against Woods.

27. Although a magistrate noted the father-daughter relationship and ultimately held these charges in abeyance, Woods retaliated by filing telephone harrassment, terroristic threat and felony theft charges against Hudak.

28. Woods alleged that Hudak had telephoned Woods and threatened to have Woods, Woods's wife, Woods's lawyers, and an assistant disciplinary counsel, Edward A. Burkardt, all murdered.



29. Woods also alleged that Hudak had stolen from Woods over \$100,000 in cash, property and documents.

30. Among the documents Woods alleged Hudak had stolen was a contract and security agreement which in fact never existed but which would be necessary for Woods to succeed in one of the above described barratrous civil lawsuits, a lawsuit seeking, in bad faith, to replevin Hudak's office furniture and equipment.

31. Woods alleged that in the same (fictitious) telephone conversation in which Hudak threatened the murders described in paragraph 28 above, Hudak admitted the felony thefts described in paragraphs 29 and 30 above.



32. At first, the district attorney's office refused to accept the ludicrous, false criminal charges Woods desired to file against Hudak.

33. Then, at the insistence of and in response to the manipulations of one of Woods's lawyers, John Silvestri, the district attorney's office did accept the charges.

34. Preliminary hearings were scheduled before a particular magistrate, but because in the past Woods had often bragged of influence with this magistrate, Hudak petitioned the director of special courts for a change of venue.



35. A change a venue was granted, but John Silvestri and Woods then vigorously argued to the director of special courts that the case should be assigned to a magistrate who was not a lawyer.

36. Through a complicated turn of events, the preliminary hearings were assigned back to the magistrate before whom they were originally scheduled.

37. Woods appeared and committed blatant perjury, testifying as to the fictitious murder threats and admissions of felony theft.

38. Woods's employee also appeared and committed blatant perjury, testifying that he had picked up a telephone extension and heard the alleged murder threats and admissions of felony theft.

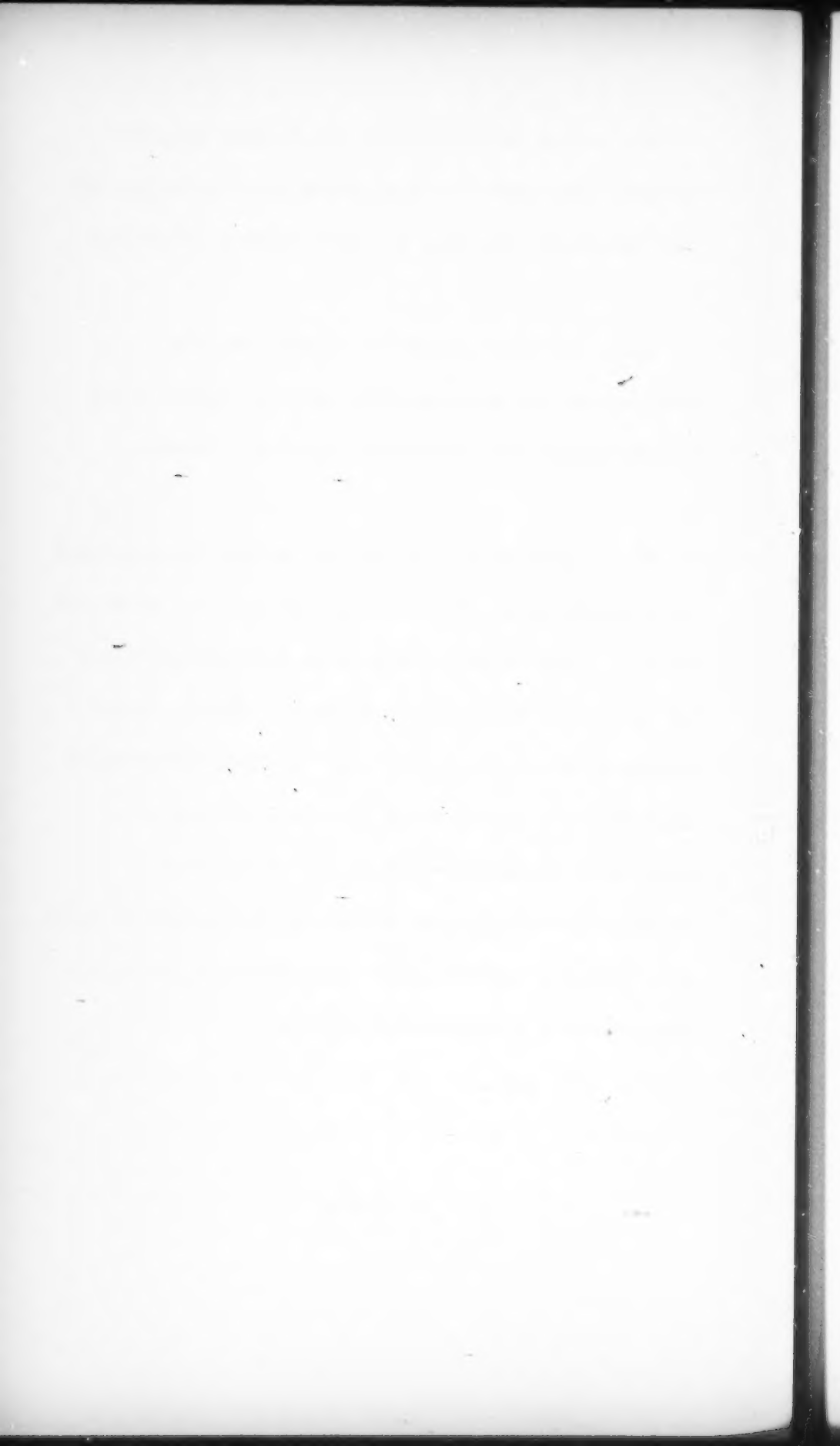




39. The magistrate held the murder threat charges in abeyance and postponed the hearing on the felony theft charges.

40. At the present time, Woods continues to pursue the above described false criminal charges against Hudak.

41. The activities of woods described in paragraphs 25 through 40 above are not in any legitimate and are designed only to harrass and annoy hudak. They have taken and will continue to take enormous amounts of time from Hudak and have severely damaged and will continue severely to damage Hudak's reputation and ability to enjoy life and effectively pursue his responsibilities.



42. Attorney John M. Silvestri, who is employed by Woods, has actively aided Woods in the activity described in paragraphs 25 through 40 above, including the false swearing, perjury, manipulation of public officials, barratry, and harrassment.

43. The activities of Woods described in paragraphs 25 through 40 above, in particular the filing of false criminal charges and perjury and subornation of perjury, are not legal remedies for which Woods is entitled under the law.

44. The activities of Woods described in paragraphs 25 through 40 above constitute an interference with the business of Hudak and thus violate paragraph 11 of the Stipulation and Order of Court.



V. Contact with Clients of Hudak for the Purpose of Those Clients' Legal Matters in Violation of Paragraph 11 of the Stipulation and Order of Court

45. During February and March, 1988, Robert Woods or agents, associates or employees of Robert Woods telephoned many clients of Hudak and advised these clients to file criminal complaints against Hudak with the Allegheny County District Attorney's Office and the Pennsylvania Attorney General's Office.

46. The activity described in paragraph 45 above violates all of the restrictions of paragraph 11 of the Stipulation and Order of Court.

VI. Contact with Creditors of Hudak for the Purpose of Interfering with the Business of Hudak in Violation of Paragraph 11 of the Stipulation and Order of Court.



47. Throughout November, 1987, Robert Woods, or agents, associates or employees of Robert Woods, telephoned scores of creditors of Hudak, provided the home telephone number of Sharon Lavelle, and advised and encouraged these creditors to telephone and write Hudak at the home of Sharon Lavelle.

48. In early December, 1987, Robert Woods, or agents, associates or employees of Robert Woods, telephoned scores of creditors of Hudak, provided the office telephone number of one Anthony Guida, an attorney at Buchanan Ingersoll who was working on a case against Hudak, and advised and encouraged these creditors to telephone Anthony Guida regarding Hudak.





49. Throughout December, 1987, Robert Woods, or agents, associates or employees of Robert Woods, telephoned scores of creditors of Hudak, provided the telephone number of the law offices of Robert O. Lampl, an attorney who had represented Hudak, and advised and encouraged these creditors to Lampl's offices.

50. Throughout December, 1987, Robert Woods, or agents, associates or employees of Robert Woods, telephoned scores of creditors of Hudak, provided Hudak's new office telephone number and Hudak's new office address, and advised and encouraged these creditors to telephone and write to Hudak at Hudak's new offices.



51. The activities of Woods described in paragraphs 47 through 50 above constitute an interference with the business of Hudak and thus violate paragraph 11 of the Stipulation and Order of Court.

VII. Contact with Hudak and Harrassment of Hudak in Violation of Paragraphs 11 and 13 of the Stipulation and Order of Court.

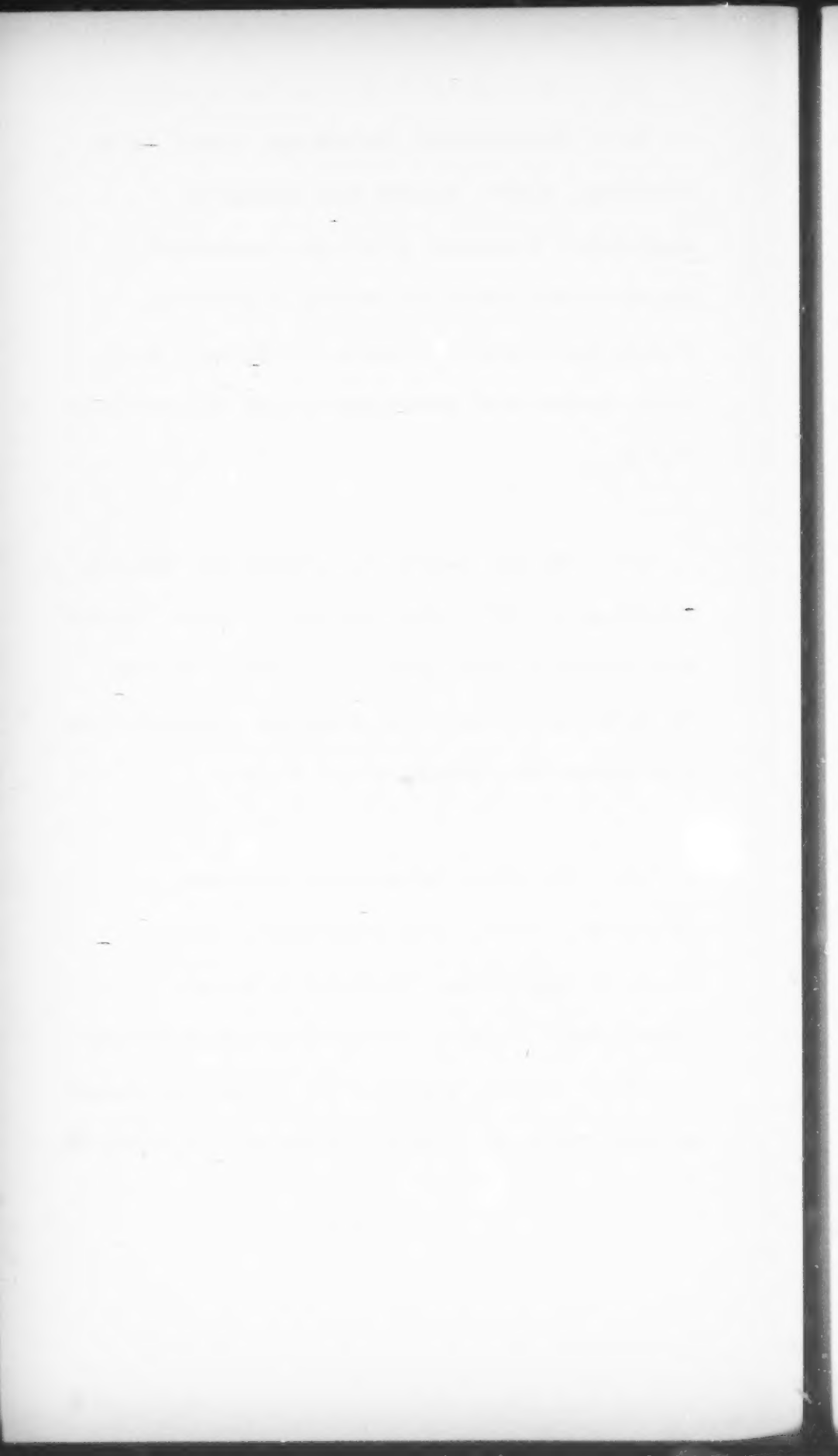
52. On or about November 16, 1987, Hudak appeared for a deposition on oral examination conducted for Woods by Yaier Y. Lehrer. At the conclusion of the deposition, after most of Woods' inane accusations had been clarified by Hudak, Woods attempted physically to attack Hudak and had to be restrained by Lehrer. From across the conference table, woods then physically spat in Hudak's face.



53. Throughout December, 1987, and January, 1987, Woods and Woods's employee, Richard O'Brian repeatedly telephoned Hudak at Hudak's offices, purported to be clients of Hudak, and left names and messages under fictitious names.

54. On at least 20 occasions during December, 1987, and January, 1988, Woods and Woods's employee, Richard O'Brian, telephoned Hudak and shouted obscenities and other harrassment at Hudak.

55. On four occasions between December, 1987, and February, 1988, Woods's employee, Richard O'Brian "shadowed" Hudak, muttering obscenities and the vilest insults at Hudak as Hudak walked through the Pittsburgh City-County



Building or Courthouse on his way to court appearances.

56. Since October, 1987, at virtually every appearance Hudak has made in matters involving Woods, Woods has shouted obscenities and insults throughout the courthouse corridors and created public disturbance.

57. In February, 1987, as Hudak left a courtroom after an appearance in a case involving Woods, Woods rushed towards Hudak, pulled back his fist as if about to strike Hudak, then physically spat again in Hudak's face.

58. Since October, 1987, Woods has threatened the 77 year old grandmother of Sharon Lavelle, Woods's mother-in-law, that he will "throw her out" of the home





she occupies if she ever again babysits for the children of Sharon Lavelle.

Here, Woods's design is to violate the happiness and interfere with the nearing marriage of Sharon to Hudak and thus to harm Hudak.

59. Since october, 1987, Woods has threatened the youngest sister of Sharon Lavelle that he will refuse to pay her college tuition if she has any contact with Sharon. Here again, Woods's design is to violate the happiness and interfere with the nearing marriage of Sharon to Hudak.

60. Since October, 1987, Woods has harassed, threatened, and disowned the closest-in-age sister of Sharon Lavelle because she refuses to disassociate herself from Sharon. Yet again, Woods's



design is to interfere with the happiness shared by Sharon and Hudak.

61. In November and then again in December, 1987, Woods harassed and abused the headmaster of the grade school of Sharon Lavelle's young children and made the vilest disparaging remarks against Sharon to the headmaster. This was done to violate the happiness shared by Sharon and Hudak.

62. On numerous occasions, Wood's employee, richard O'Brian, has "shadowed" or followed Sharon and Sharon's children. This is done at the direction of Woods to violate the happiness shared by Sharon, her children, and Hudak.

63. The activity described in paragraphs 52 through 62 above is



personal harrassment which interferes so severely with Hudak's time and Hudak's ability to handle his responsibilities in that it constitutes an interference with Hudak's business and thus violates paragraph 11 of the Stipulation and Order of Court.

64. The activity described in paragraphs 52 through 57 above is prohibited contact with Hudak and violates paragraph 13 of the Stipulation and Order of Court.



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDAK, )

Plaintiff )

vs. CIVIL ACTION NO. 87-1999 )

ROBERT WOODS, MICHAEL S. )

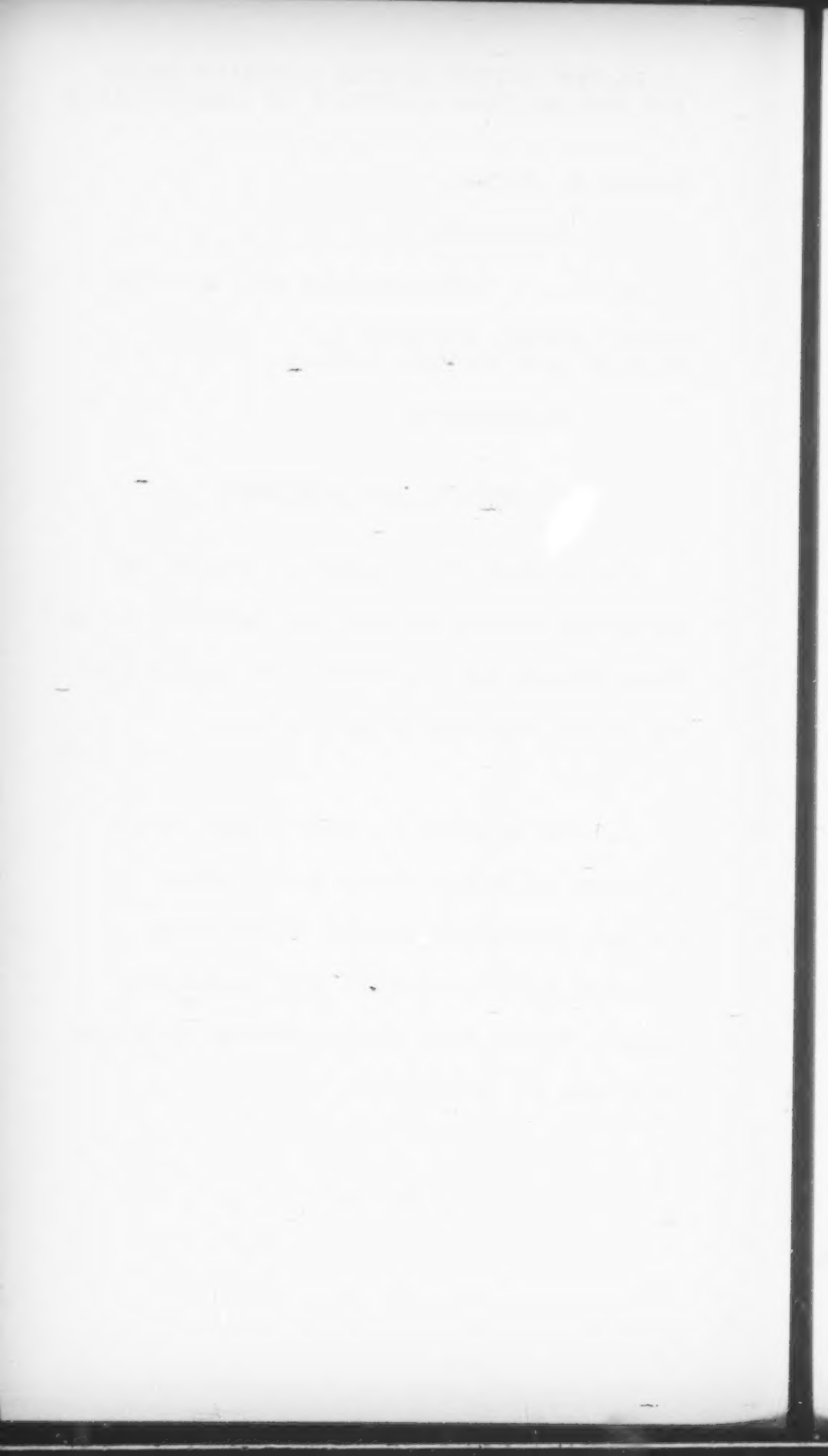
GEISLER and RICHARD OBRIAN, )

Defendants )

MOTION FOR CONTEMPT

The plaintiff, Joseph E. Hudak, an attorney acting on his own behalf, files this motion for contempt, in support of which he represents as follows:

1. On October 1, 1987, this Court entered an order which among other things prohibits Robert Woods from contact with plaintiff and prohibits Robert Woods from interference with the business of plaintiff.



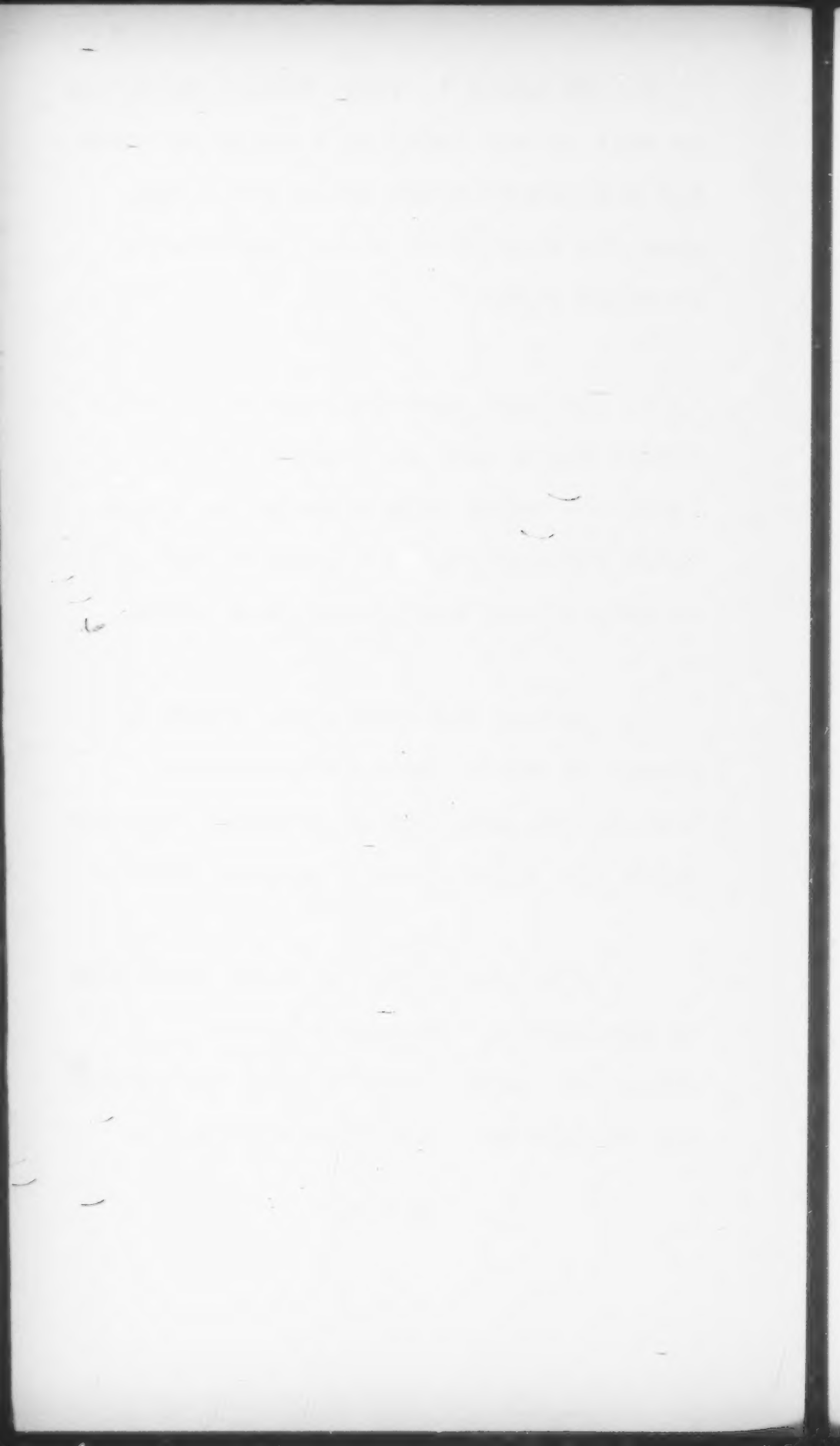


2. On April 7, 1988, Robert Woods lay in wait in the lobby of a building Woods had discovered Hudak would enter and, upon the arrival of Hudak, physically attacked Hudak.

3. On that same day, April 7, 1988, Robert Woods made at least five (5) telephone calls to a company for which Hudak was working on a project and falsely stated that Hudak is a rapist.

4. During the last week, Woods or agents of Woods, have resuscitated preliminary hearings on criminal charges Woods has filed falsely against Hudak.

5. The activities of Woods described in paragraphs 2 through 4 above constitute prohibited contact with Hudak and prohibited interference with the

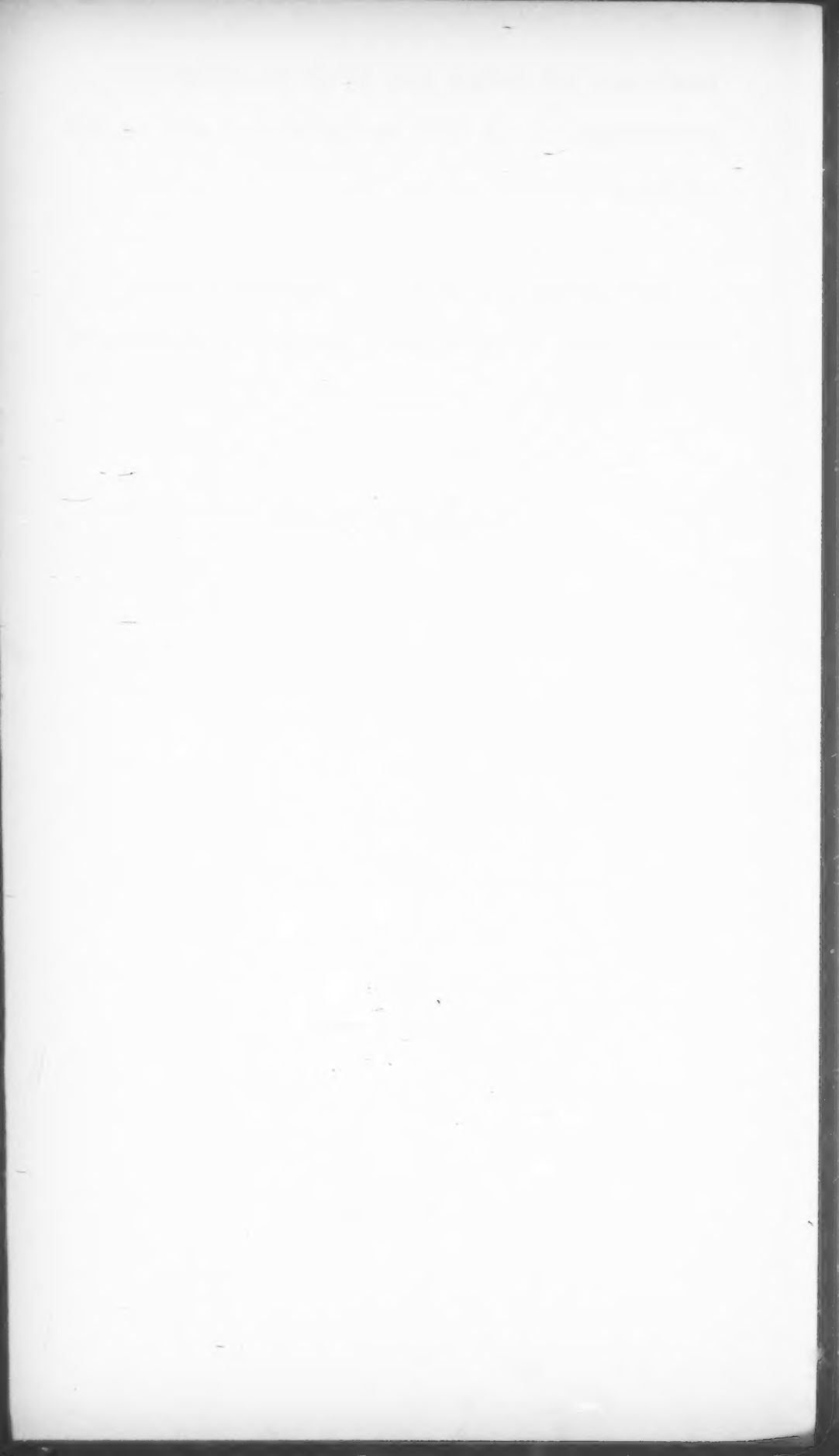


business of Hudak and thus violated paragraph 11 of the Stipulation and Order of Court.

WHEREFORE, plaintiff requests that this Court hold Robert Woods in contempt.

---

Joseph E. Hudak



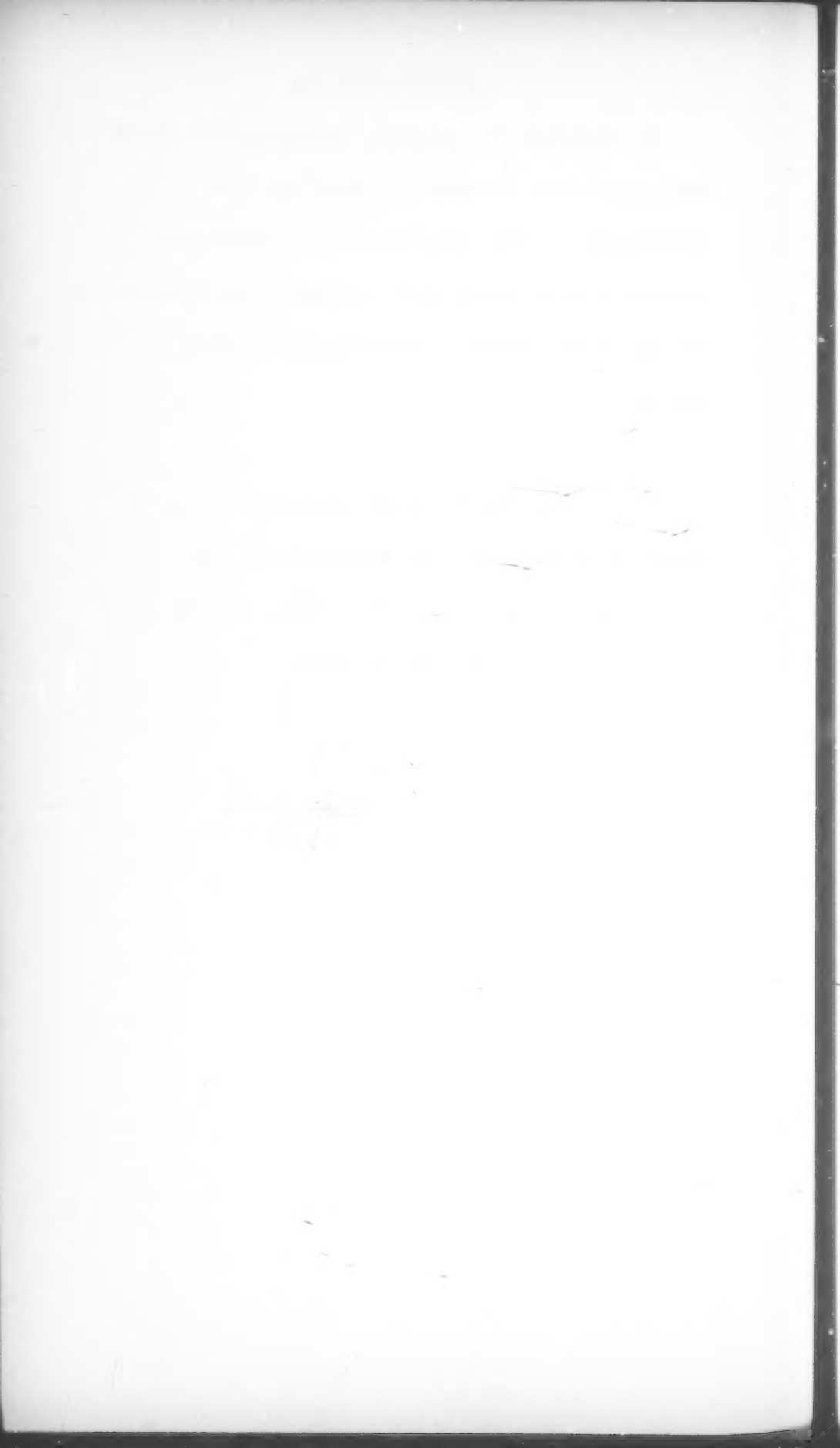
### VERIFICATION

I, Joseph E. Hudak, plaintiff, have written the foregoing Motion for Contempt. The statements contained therein are true and correct to the best of my knowledge, information, and belief.

This statement and verification is made subject to law providing for criminal penalties if I make false statements to authorities.

---

Joseph E. Hudak



CERTIFICATE OF SERVICE

I, Joseph E. Hudak, certify that I have served true and correct copies of the foregoing Motion for Contempt upon the following:

BY HAND DELIVERY

Charles Scarlata  
Koppers Building  
Pittsburgh, PA 15219

BY MAIL

Robert Woods  
413 "The Bigelow" 413  
Pittsburgh, PA 15219

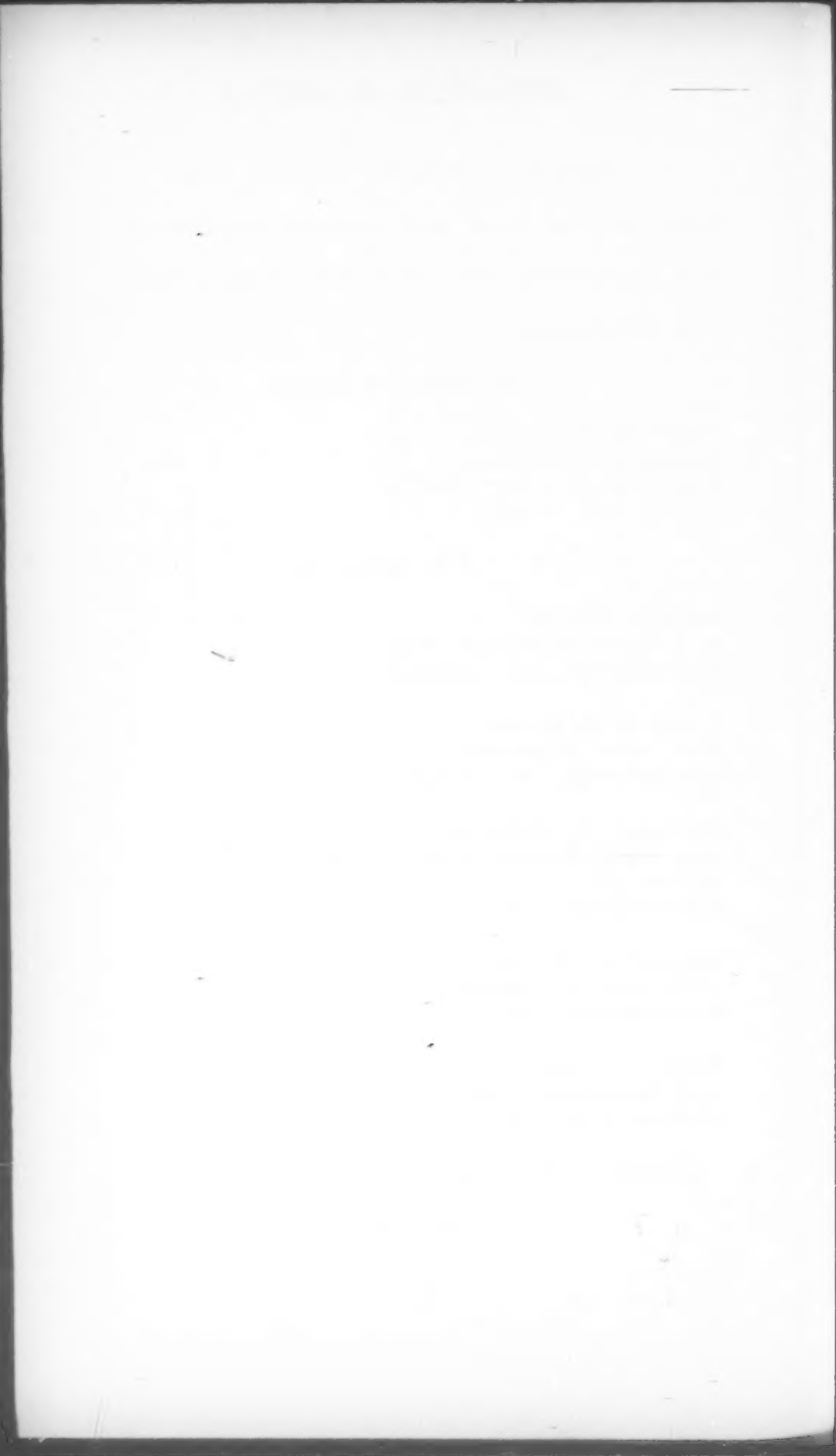
Richard O'Brien  
413 "The Bigelow"  
Pittsburgh, PA 15219

Michael S. Geisler  
500 Penn Center Boulevard  
Suite 101  
Pittsburgh, PA 15235

Edward A. Burkardt  
1010 Manor Complex  
Pittsburgh, PA 15219

Yaier Y. Lehrer  
140 Gateway Towers  
Pittsburgh, PA 15222

William C. Bartley





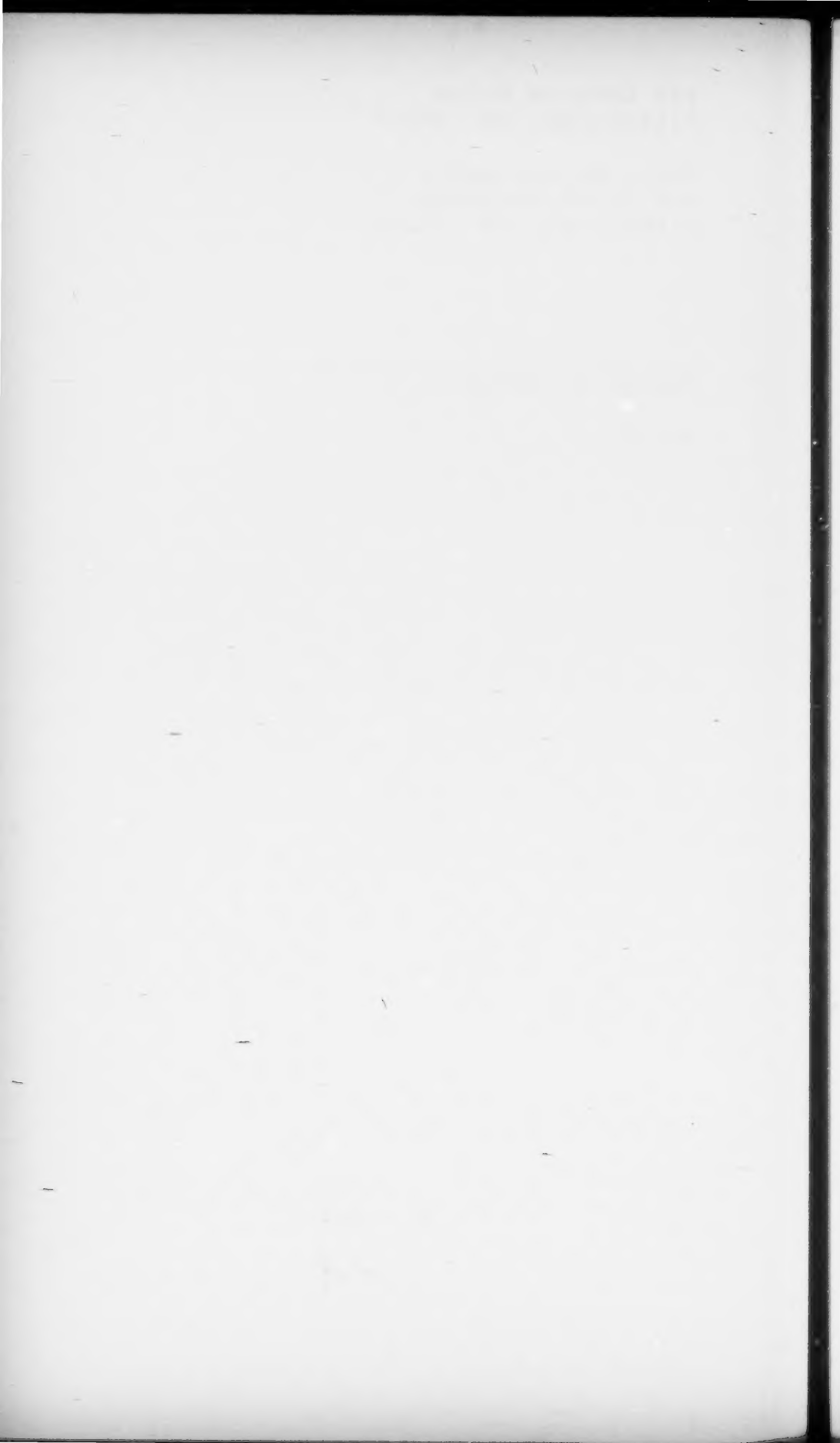
136 Longvue Drive  
Pittsburgh, PA 15237

John. M. Silvestri  
828 Frick Building  
Pittsburgh, PA 15219

---

Joseph E. Hudak

4-7-87



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDAK,

Plaintiff,

vs. CIVIL ACTION NO. 87-1999

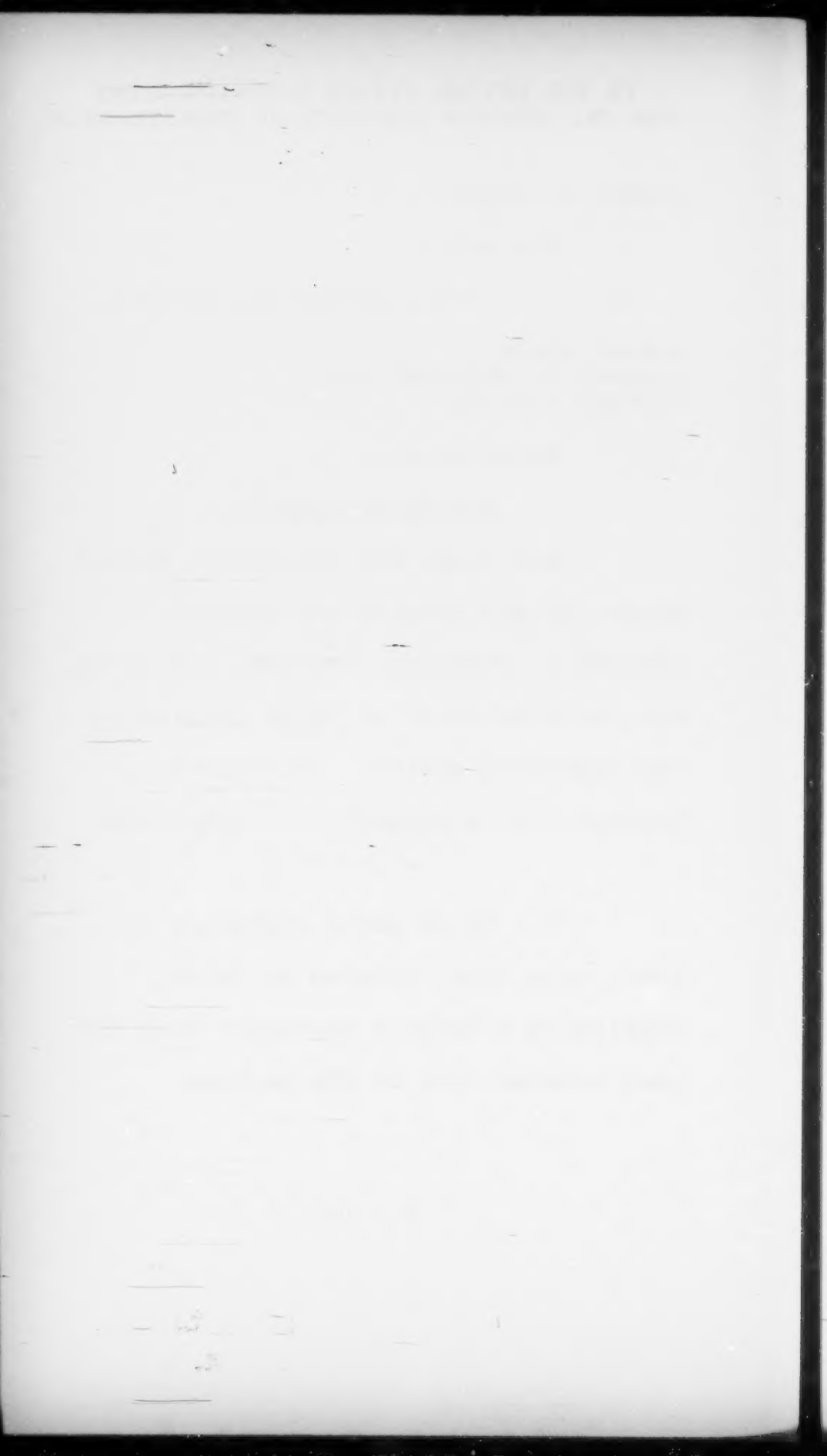
ROBERT WOODS,  
MICHAEL S. GEISLER, and  
RICHARD O'BRIEN,

Defendants.

MOTION TO DISMISS

Now Comes the defendant, Robert Woods, by and through his counsel, CHARLES F. SCARLATA, ESQUIRE, and moves the Court to enter an ORDER dismissing the captioned matter. In support thereof, it is respectfully submitted:

1. On or about September 30, 1987, this Court entered an ORDER confirming a Consent Agreement that had been entered into by the parties



enjoining them from engaging in certain conduct.

2. On or about March 31 and April 5, 1988, Plaintiff filed Motions for Contempt.

3. On or about May 11, 1988, this Court entered an ORDER setting a date for a Hearing on the Motions for Contempt and requiring that the moving party file a Brief on or before May 18, 1988. No such Brief was ever filed.

4. Thereafter, the Court held a Hearing on the Motions for Contempt. That Hearing concluded on or about June 16, 1988.

5. At the conclusion of the Hearing, this Court directed the Movant to file a Brief, in support of his position, within fifteen (15) days of the filing of the Transcript in the captioned matter. (see Transcript of Proceedings

Volume 41, No. 1, January 1, 1929

Subscription Price, \$5.00 per Annum in Advance

Single Copies, 15 Cents

Entered as Second-Class Matter, May 26, 1917  
Postoffice at Chicago, Ill., and Mails Paid at Special Rate of Postage Provided for by Act of October 3, 1917

Acceptance for mailing at special rate of postage provided for in Act of October 3, 1917, authorized on July 1, 1928

Postpaid by the American Medical Association, 535 North Dearborn Street, Chicago, Ill.

Copyright, 1929, by American Medical Association

Printed at the American Medical Association, 535 North Dearborn Street, Chicago, Ill.

Published by the American Medical Association, 535 North Dearborn Street, Chicago, Ill.

Subscription orders, notices of change of address, and all correspondence should be sent to the American Medical Association, 535 North Dearborn Street, Chicago, Ill.

Claims for missing issues will only be considered if made immediately on receipt of following issue

Entered as Second-Class Matter, May 26, 1917  
Postoffice at Chicago, Ill., and Mails Paid at Special Rate of Postage Provided for by Act of October 3, 1917

Acceptance for mailing at special rate of postage provided for in Act of October 3, 1917, authorized on July 1, 1928

Postpaid by the American Medical Association, 535 North Dearborn Street, Chicago, Ill.

Copyright, 1929, by American Medical Association

Printed at the American Medical Association, 535 North Dearborn Street, Chicago, Ill.

Published by the American Medical Association, 535 North Dearborn Street, Chicago, Ill.

Subscription orders, notices of change of address, and all correspondence should be sent to the American Medical Association, 535 North Dearborn Street, Chicago, Ill.

Claims for missing issues will only be considered if made immediately on receipt of following issue

Entered as Second-Class Matter, May 26, 1917  
Postoffice at Chicago, Ill., and Mails Paid at Special Rate of Postage Provided for by Act of October 3, 1917

Acceptance for mailing at special rate of postage provided for in Act of October 3, 1917, authorized on July 1, 1928

Postpaid by the American Medical Association, 535 North Dearborn Street, Chicago, Ill.

Copyright, 1929, by American Medical Association

on June 16, 1988, at pages 44, 45, and 46).

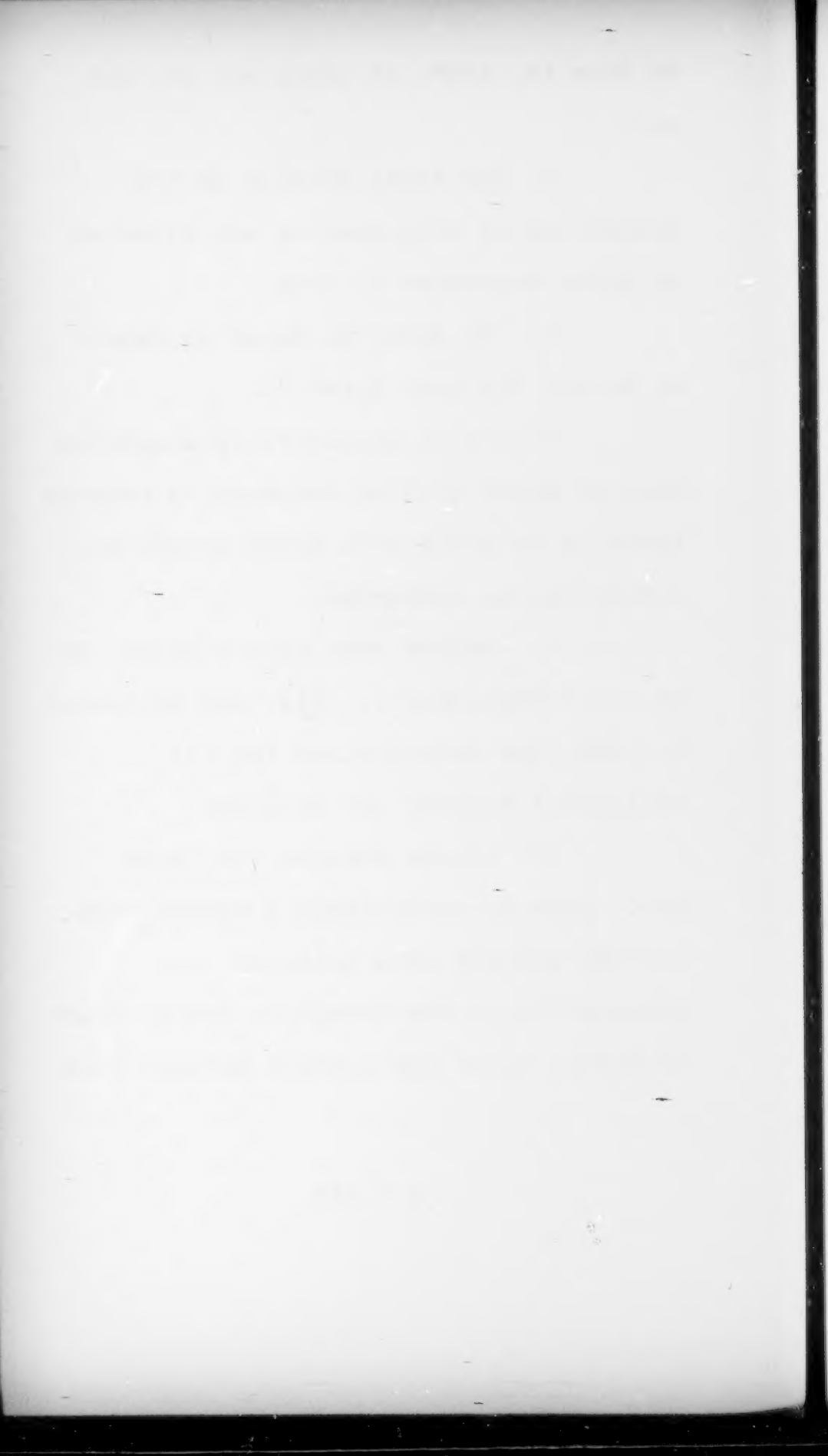
6. The final portion of the Transcript of this Hearing was filed on or about September 2, 1988.

7. To date, no Brief on behalf of Movant has been filed.

8. It is respectfully suggested that no Brief will be forthcoming because there is no basis upon which Movant's claims can be supported.

9. Rather than file a Brief, on or about September 1, 1988, and September 6, 1988, the Movant filed two (2) additional Motions for Contempt.

10. These Motions, in large part, seek to re-litigate a matter that was the subject of a criminal prosecution in the Allegheny County Court of Common Pleas and contain matters that





could have and/or should have been raised in any of the prior filed by the Movant.

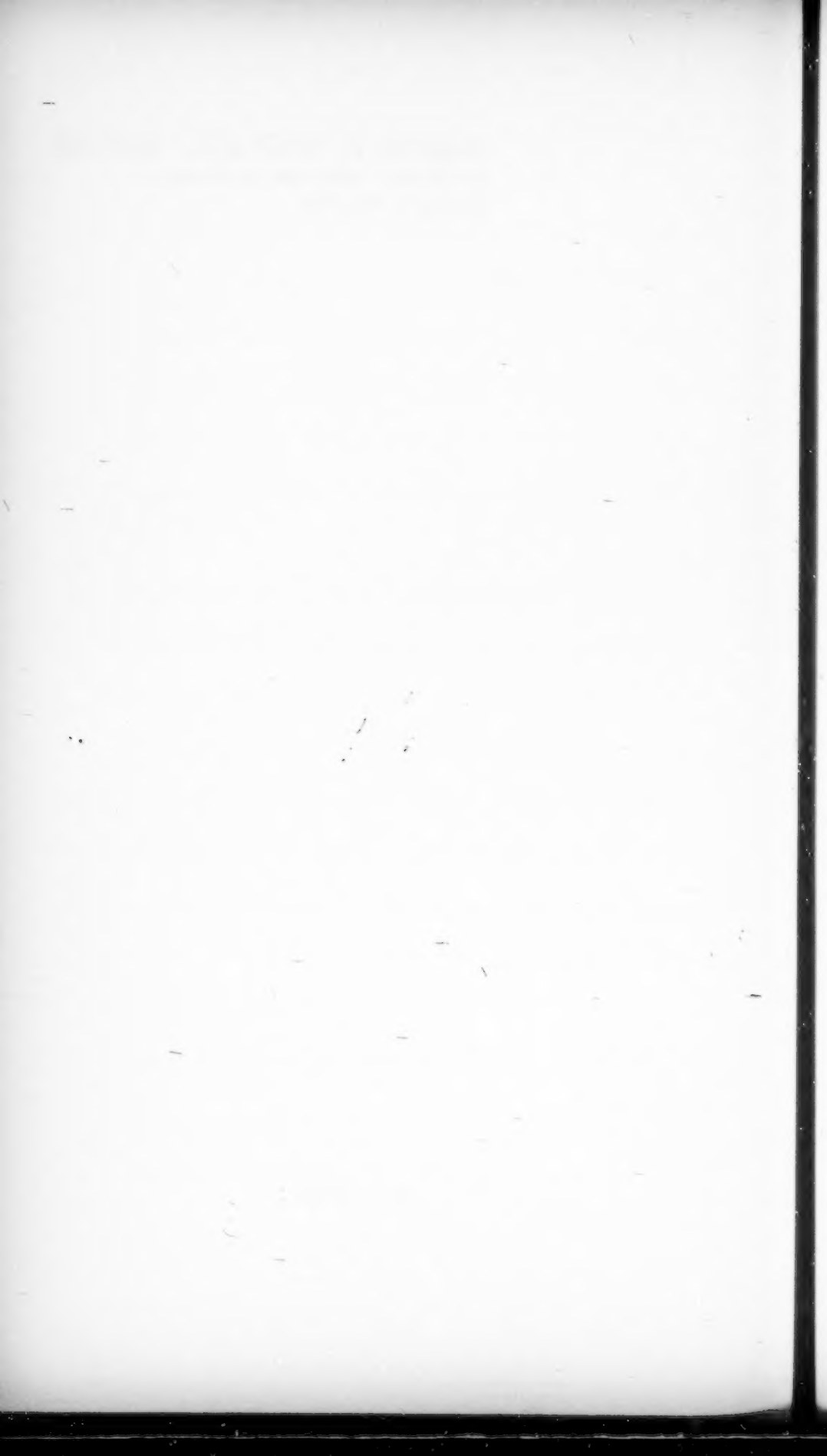
11. In addition, it is respectfully submitted that this Court lacks jurisdiction over this matter inasmuch as the Court's original jurisdiction was grounded on the pendency of a Bankruptcy Petition which has long since been dismissed.

WHEREFORE, for the foregoing reasons, it is respectfully requested that the Court enter an ORDER dismissing the Movant's Motions for Contempt for failure to comply with the Court's Order or because of the lack of jurisdiction, and further that the Court dissolve the Injunction previously entered.

Respectfully submitted,



**CHARLES F. SCARLATA, ESQUIRE**  
**Counsel for Defendant,**  
**Robert Woods**



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDAK,

Plaintiff,

vs. CIVIL ACTION NO. 87-1999

ROBERT WOODS,  
MICHAEL S. GEISLER and  
RICHARD O'BRIEN,

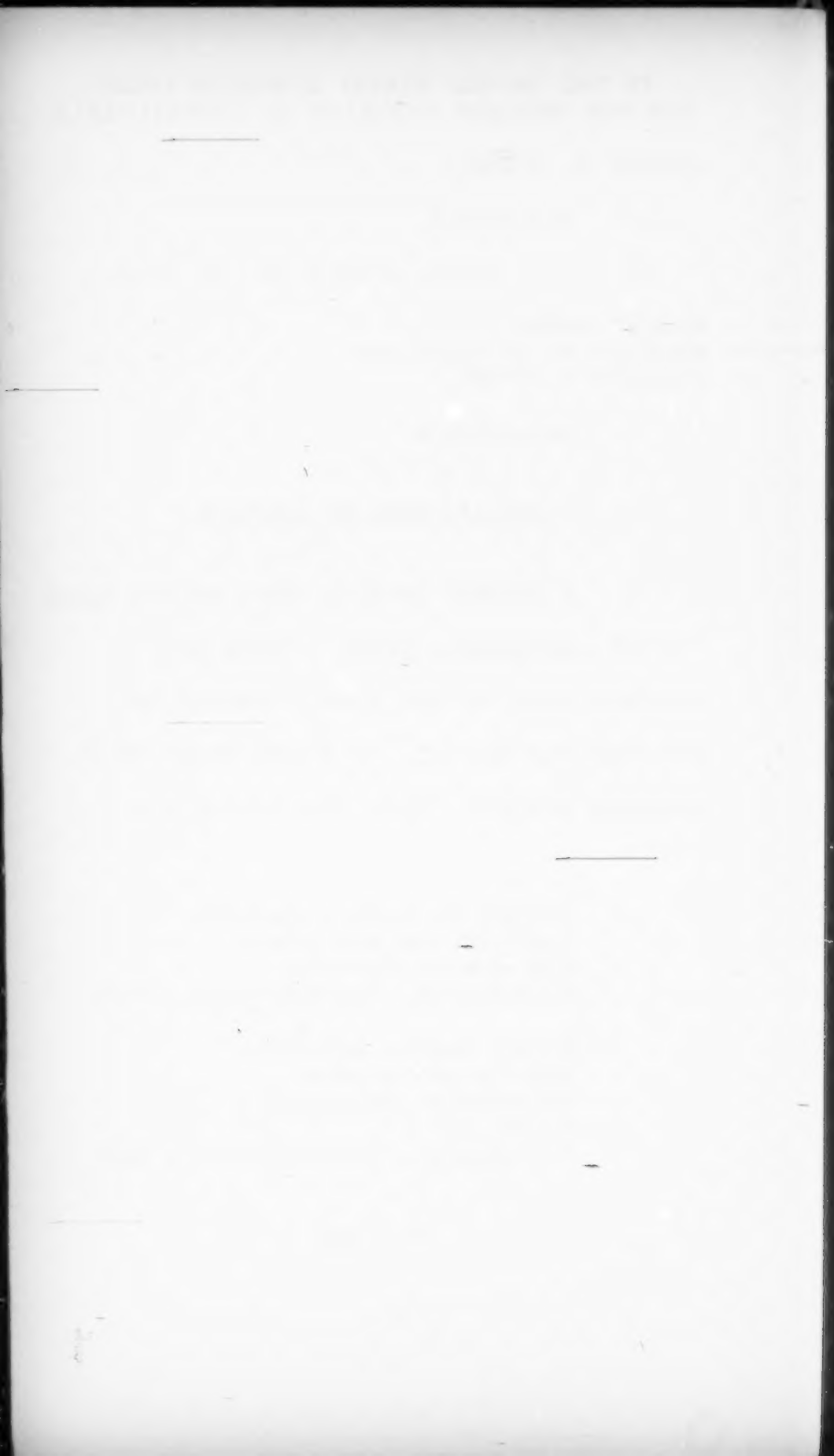
Defendants.

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd  
day of September, 1988, a true and  
correct copy of the within Motion to  
Dismiss was served, by first-class mail,  
postage prepaid, upon the following:

Joseph E. Hudak, Esquire  
Post Office Box 23423  
4th Avenue Station  
Pittsburgh, Pennsylvania 15222

Norma Chase, Esquire  
239 Fourth Avenue  
Investment Building  
Suite 721  
Pittsburgh, Pennsylvania 15222

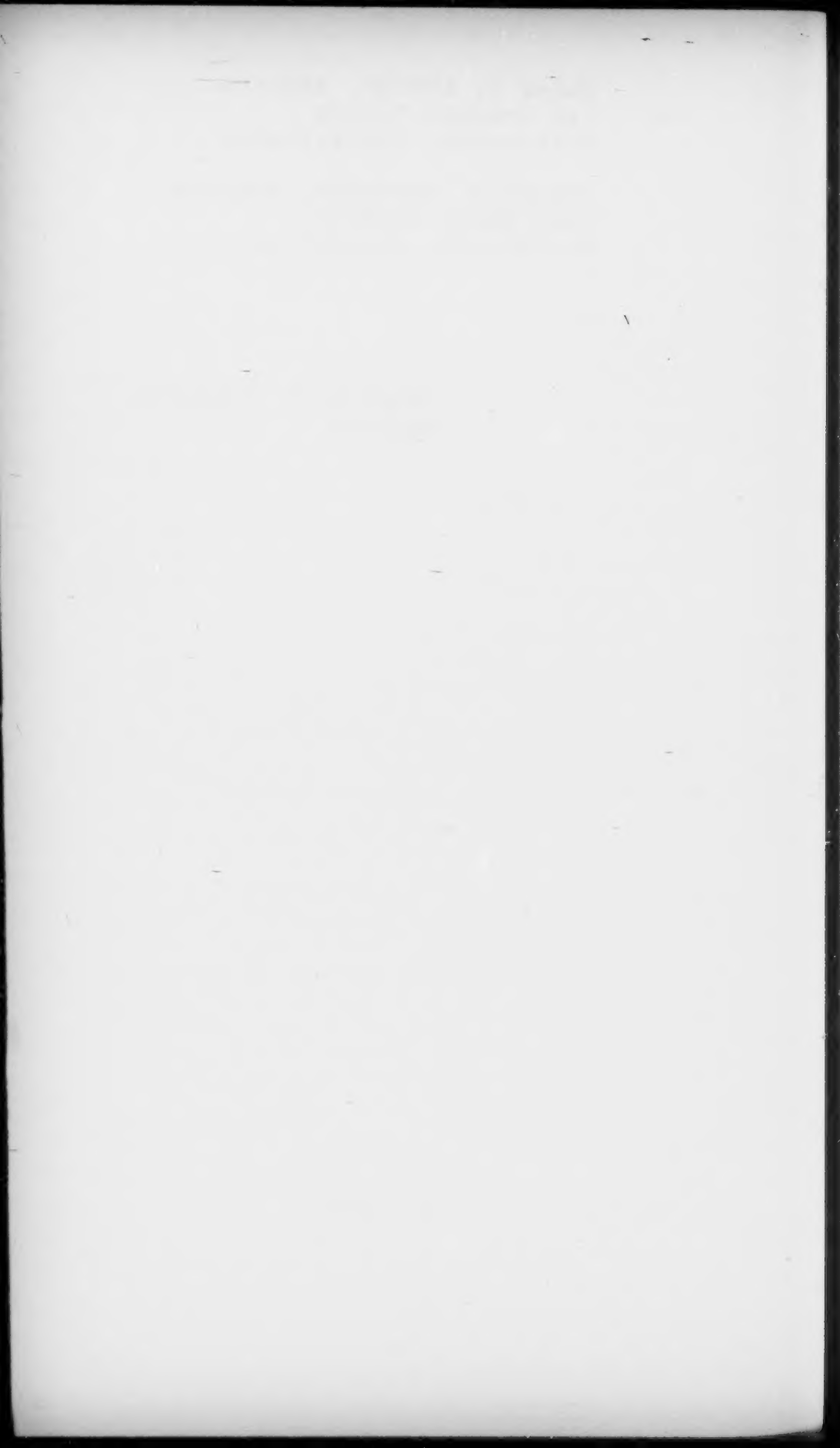


Yaier Y. Lehrer, Esquire  
140 Gateway Towers  
Pittsburgh, Pennsylvania

Edward A. Burkardt, Esquire  
1010 Manor Complex  
Pittsburgh, Pennsylvania 15219

---

CHARLES F. SCARLATA,  
ESQUIRE





IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDAK,

Plaintiff,

v.

CIVIL ACTION NO. 87-1999

ROBERT WOODS, MICHAEL S. GEISLER )  
and RICHARD O'BRIAN )

Defendants. )

ORDER OF COURT

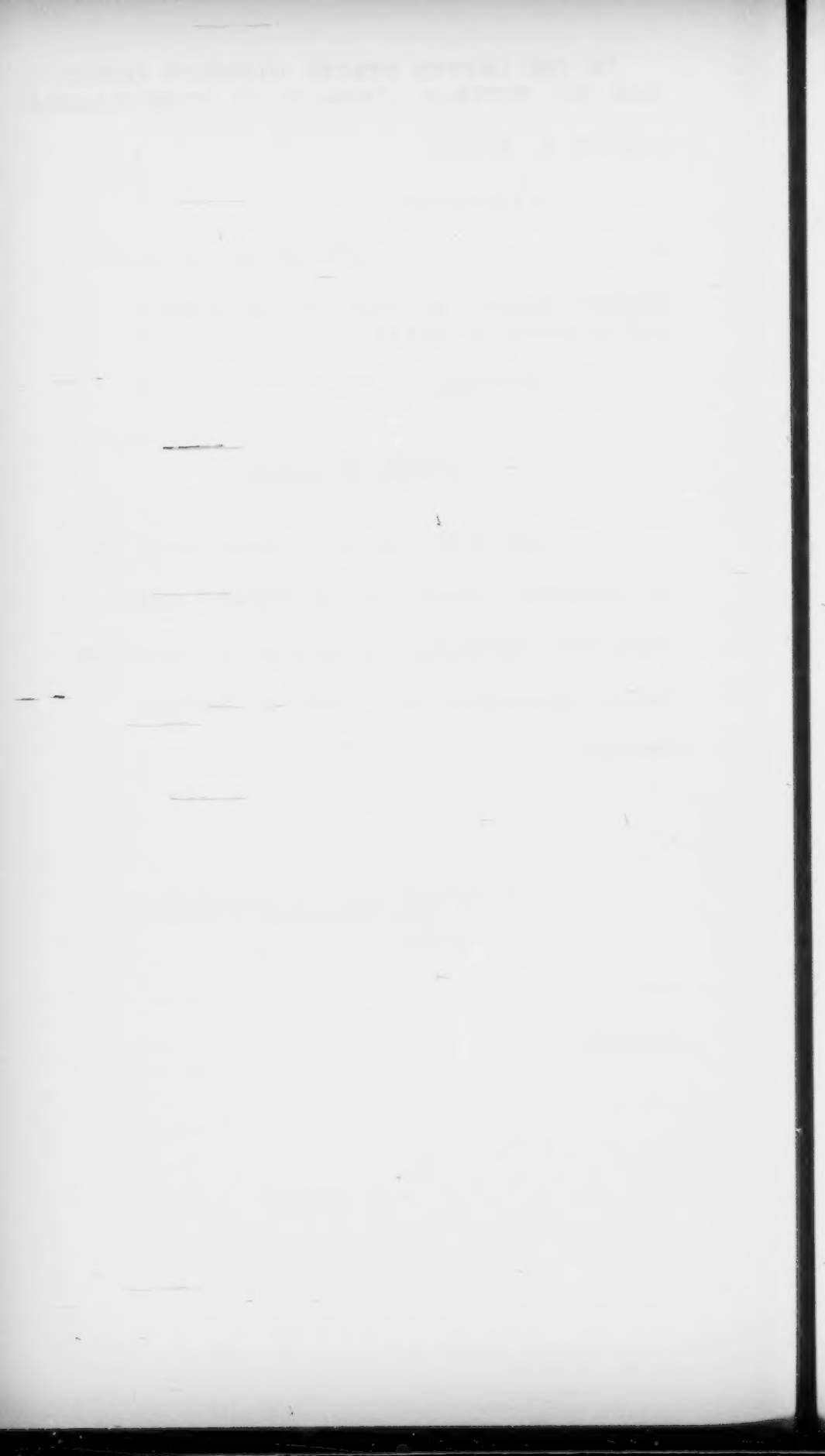
AND NOW, TO-WIT, this 21st day  
of October, 1988, it is hereby ordered  
that the defendant's Motion to Dismiss  
dated September 26, 1988 is hereby  
denied.

---

Louis Rosenberg District  
Judge

cc:

Counsel



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDAK,  
Plaintiff,

)  
)  
)

vs. CIVIL ACTION NO. 87-1999

ROBERT WOODS, MICHAEL S. GEISLER,) )  
and RICHARD O'BRIAN ) )  
Defendants. )

ORDER OF COURT

AND NOW, TO-WIT, this 22nd day of  
December, 1988, in order to facilitate  
the compliance of the parties with this  
court's prior and current orders, it is  
hereby ORDERED, ADJUDGED and DECREED that  
Robert L. Federline, Esquire be and  
hereby is appointed as a Master by this  
court pursuant to Federal Rule of Civil  
Procedure No. 53. Such Master shall have  
the authority and duty of supervising  
compliance with this order and reporting



on compliance with the following order to this court.

It is further ORDERED that:

1. The defendants shall cease and desist from molesting in every possible way the plaintiff, Joseph E. Hudak, directly or indirectly.

2. The defendants are required to withhold the transmittal of any communications, statements, mouthings, gossip or references regarding Hudak to any and all persons except by special permission of this court.

3. The defendants, Woods Geisler and O'Brien, and any of their agents, servants or employees, shall cooperate with the Master and shall immediately separate themselves completely, under the supervision of the Master, from all business matters except as otherwise permitted by the Master.



4. Hudak shall immediately provide to the Master a complete accounting of all cases and monies turned over to Geisler pursuant to the Order of Court dated October 1, 1987, and Geisler shall be and hereby is required and ordered to present to the Master, within 10 days of the date of this Order, a complete accounting of all divorce and bankruptcy files which he removed from the Hudak offices and those cases turned over to him for completion pursuant to the injunctive order, specifying for each case:

- a. The name of the client;
- b. The matter being handled on behalf of the client;
- c. The date that the case was accepted for the client;
- d. The complete itemization of





all steps already taken on behalf of such client;

e. A complete specification of all work remaining in such case to prosecute it to completion;

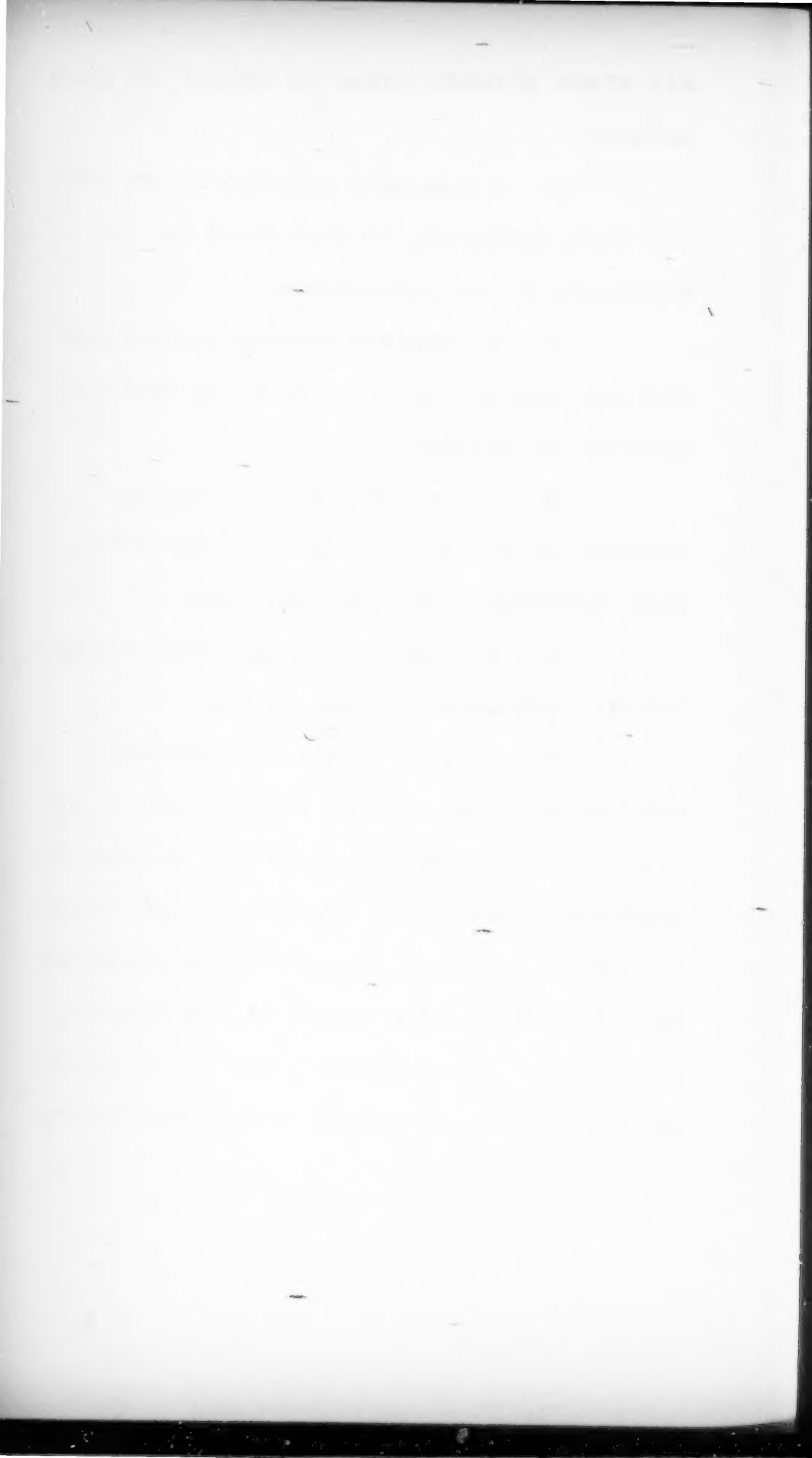
f. A complete accounting of any and all monies received from any and all sources by Geisler;

g. A complete accounting by Geisler of all monies received by him from bankruptcy proceedings; and

h. A complete accounting of any and all monies disbursed by him.

5. Geisler shall thereafter provide monthly reports to the Master of the circumstances and financial status of each such case until its final conclusion or until such time when he is relieved of such a case by this court or the Master.

6. Geisler shall and is required to act as counsel on all Hudak bankruptcy



and divorce cases turned over to him pursuant to the injunctive order, and those which he personally procured or which may be assigned to him by the Master, excepting only those cases for which he may be relieved by this court.

7. Woods shall file, within 10 days of the date of this Order, a complete listing of all of his assets which he holds either personally or jointly with any other person or corporation, showing for each such asset the nature and extent of his holding, including, but not limited to, all holding under veil or pseudonym names.

8. Within 15 days of the date of this order Woods shall deposit with the Clerk of Court the sum of \$10,000, in cash or certified funds. This fund shall be used for the purposes of providing costs and expenses for those cases



requiring filing costs and other litigation expenses as well as for the payment of the costs and fees of any substitute counsel appointed by the court or the Master on any of the Hudak bankruptcy or divorce cases and for the payment of the Master's fees and expenses. Woods shall provide necessary funds to maintain or replenish this account to the level of \$10,000 at all times by supplying such funds to the Clerk of Courts in cash or certified form within 24 hours of any notice of any court or Master, approved expenditure from the said fund, but this shall not relieve Woods of any obligation to independently assess the fund and keep it replenished to the level of \$10,000.

9. Woods shall provide all the funds necessary except for those which Geisler shall be directed to provide for



furthering all the divorce and bankruptcy cases to their completion. Such amounts shall be presented for payment of such expenses through the Clerk of Court and shall be paid only upon approval of this court after recommendation of the Master.

10. Geisler shall also provide immediate and specified funds as required by the Master in his discretion as such funds may be necessary for the completion of the bankruptcy and divorce matters. Since the payments of money to Geisler and the receipt of money by Geisler is in a confused state because Geisler never filed monthly accounts as he was required to do in the injunctive Order and because of the confusion of cases which he processed for himself and which he was required to process for Hudak in accordance with the injunctive Order, no amount has been fixed here for Geisler to





provide, but he shall be at all times liable to damages in the making of payments as circumstances arise by which he is performing the duties he will be attempting to do in processing the cases in order to redeem himself. If the amount of a fund can be ascertained at any time hereafter, then one shall be fixed according to the circumstances which provide sufficient information to do so as may be reported by the Master. If it should come to the attention of the Master that Geisler has received funds by charging or overcharging clients who were former clients of Hudak, the court or the Master may take this into consideration for further processing and determination.

11. If, at any time, any party reasonably believes that there has been a failure to comply with, or contempt of, this Order of Court, such party shall



submit, in writing and in detail, his reasons in support of such allegations of failure to comply or contempt, to the Master. All communications with the Master by the parties shall be in writing.

12. Upon consideration of any reports or complaints made to him hereunder, by any of the parties hereunder, the Master may file a report:

a. Recommending that any party be held in contempt, and the reasons therefore,

b. Specifying recommendations for appropriate relief as a result of any failure to comply with this order or any actions taken in contempt of this order,

c. Recommending the removal of counsel or substitution of counsel on any of the bankruptcy or divorce matters under the supervision of the Master.



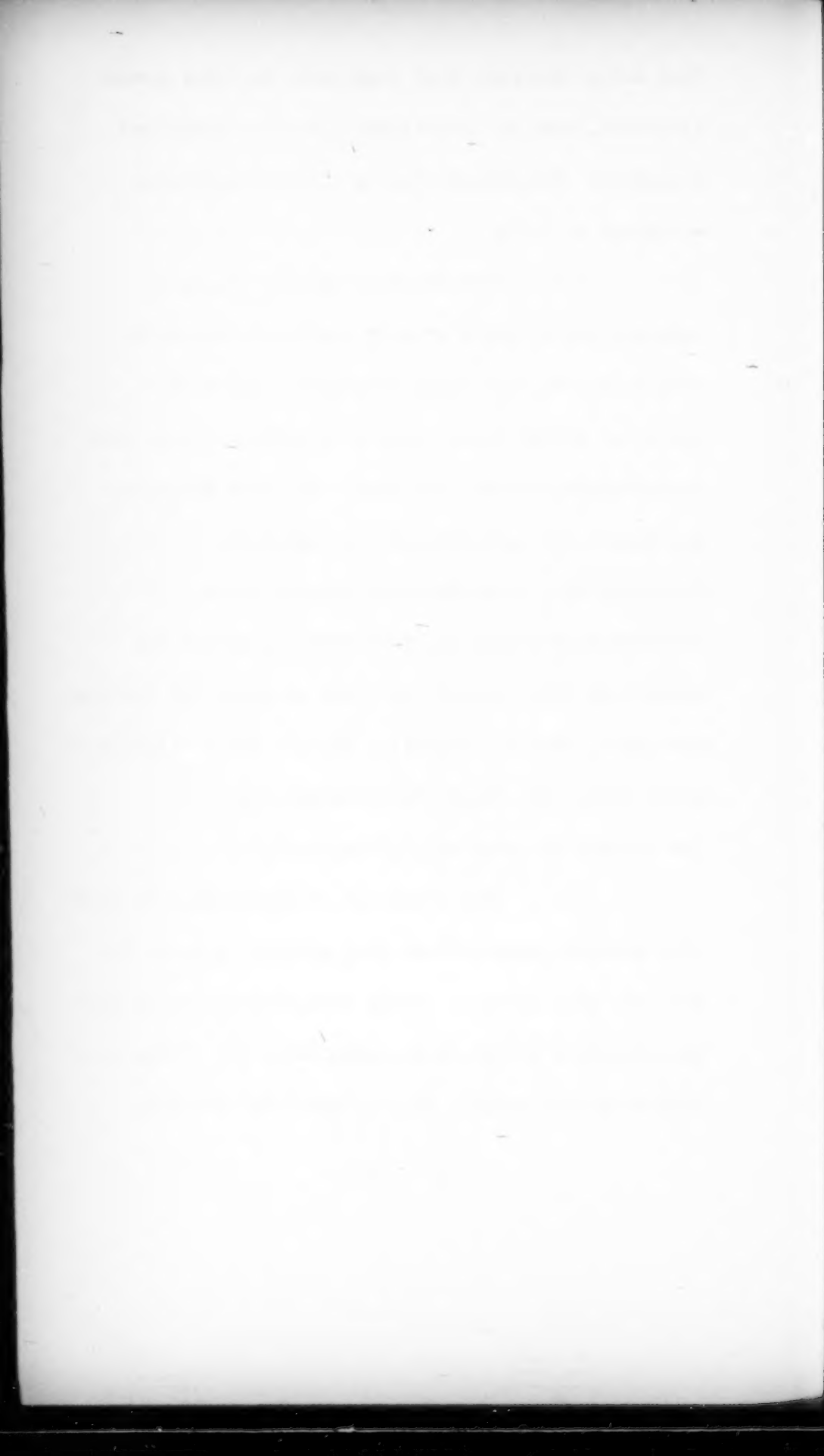
13. For the purpose of making such recommendation, the Master may, at his discretion or upon request of a party, hold any evidentiary hearing necessary for the preparation of any of his reports in this matter. The Master may require the production before him of evidence upon all matters embraced in this order of reference, including, but not limited to, the production of all books, papers, vouchers, documents and writings applicable thereto. The Master may rule upon the admissibility of any evidence before him and shall have the authority to put witnesses under oath and may examine them and shall have the power to summon or subpoena the parties to the action and examine them after putting them under oath. When a party so requests, the Master shall make a record of the evidence offered and excluded in



the same manner and subject to the same limitations as provided in the Federal Rules of Evidence for a court sitting without a jury.

14. The Master shall file a report with this court indicating the compliance, or lack thereof, of the parties with this court's order, and the recommendations, if any, of the Master pursuant to paragraph 12 hereof. Thereafter, the Master shall file subsequent reports for the purpose of updating the court on the status of these matters, which reports shall be filed not more than 60 days following the immediately preceding report.

15. The rate of compensation for the Master appointed hereunder shall be \$95.00 per hour. such compensation shall be payable only upon approval of this court after application of the Master





duly filed, such application not being filed more frequently than once every 45 days. This application shall include:

a. A chronological listing of time and services performed by the Master;

b. The total amount of compensation requested;

c. The time period involved; and

d. The date and amount of previous compensation paid to the Master, if any.

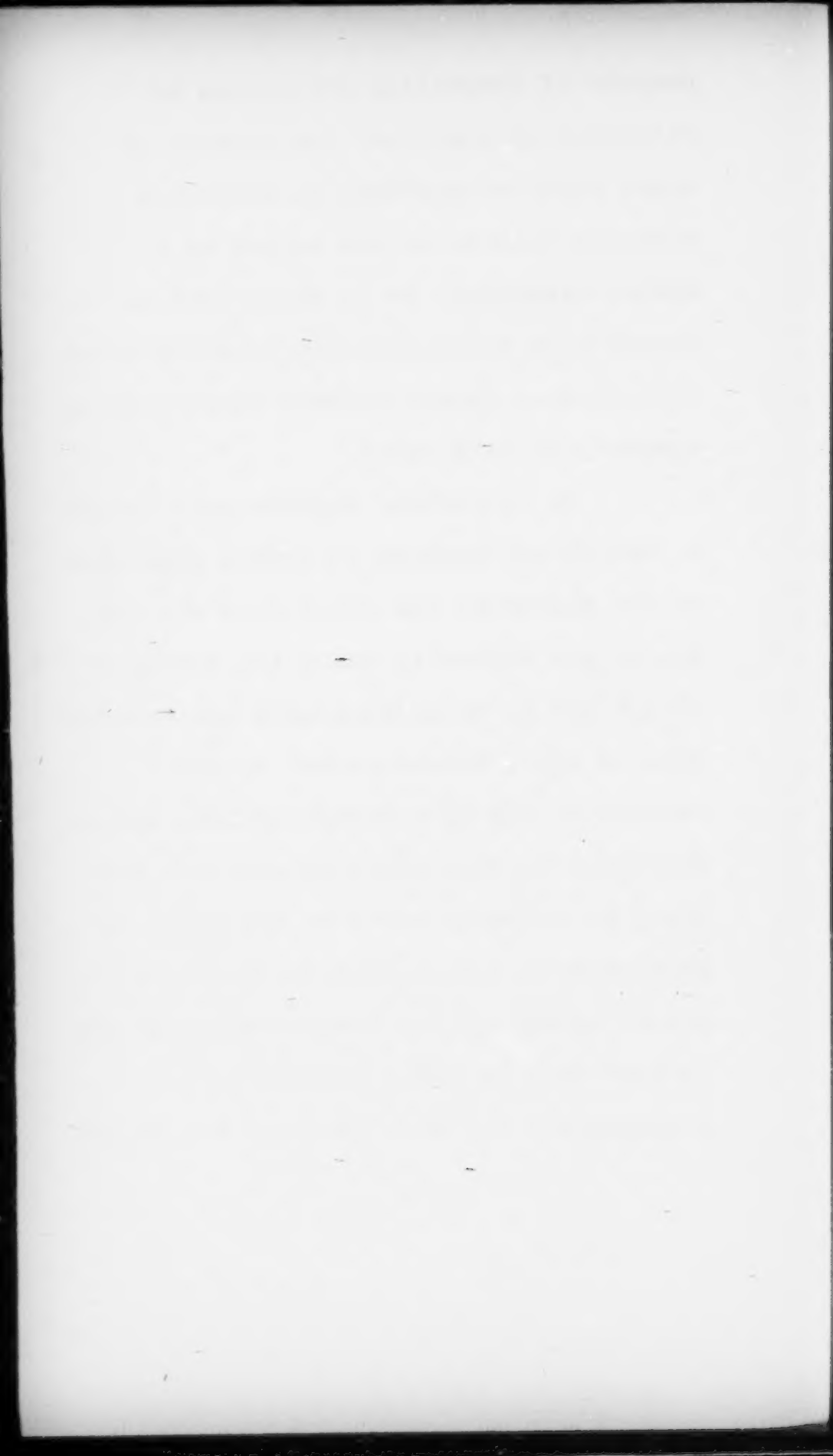
16. As a part of each report, whether the initial report, any interim report, or the final report of the Master, he shall also show an accounting of all trust funds held by the Clerk of Courts throughout such period, itemizing all expenditures and receipts.

17. In the event the Master is required to expend any sums for the



purpose of compelling attendance of witnesses at hearings, for payment of court reporter expenses or otherwise directly related to his duties as a Master hereunder, he is authorized to expend such funds directly from the trust fund created herein without first seeking approval of this court.

It is further ORDERED that Robert L. Federline, Esquire be hereby appointed as the Master by the court with all the powers and authority which the duties of office and in accordance with the Federal Rule of Civil Procedure No. 53 shall require of him as a matter of law, and as delegated by this court to perform, and shall be properly sworn by the court to perform such duties with the grant of powers necessary for their completion and further that he shall receive as compensation for such services \$95.00 per



hour as herein stated in accordance with  
a sworn report submitted by him to the  
court of the hours and details.

---

Louis Rosenberg  
District Judge

cc:

Counsel of Record-



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOSEPH E. HUDAK,  
Plaintiff,

)  
)  
)  
)

v. CIVIL ACTION NO. 87-1999

ROBERT WOODS, MICHAEL S. GEISLER )  
and RICHARD O'BRIAN )  
Defendants. )

ORDER OF COURT

AND NOW, TO-WIT, this 9th day of  
January, 1989, the Defendant's Motion for  
Stay is hereby denied.

Louis Rosenberg, District Judge

cc:

Counsel of Record





UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

NOS. 89-3030, 89-3043, 89-3069, 89-3070

---

JOSEPH E. HUDAK

VS.

ROBERT WOODS,  
MICHAEL S. GEISLER  
RICHARD O'BRIAN

Robert Woods,  
Appellant in Nos. 89-  
3030 and 89-3070

-----  
JOSEPH E. HUDAK

VS.

ROBERT WOODS,  
MICHAEL S. GEISLER  
RICHARD O'BRIAN

Michael S. Geisler,  
Appellant in No. 89-  
3043

-----  
JOSEPH E. HUDAK

VS.



ROBERT WOODS,  
MICHAEL S. GEISLER  
RICHARD O'BRIAN

Richard O'Brian,  
Appellant in No. 89-  
3069

ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE WESTERN DISTRICT OF  
PENNSYLVANIA

(D. C. Civil No. 87-1999)

Present: Higginbotham, Stapleton, and  
Rosenn, Circuit Judges

J U D G M E N T

This cause came on to be heard on the  
record from the United States District  
Court for the Western District of  
Pennsylvania and was argued by counsel  
April 11, 1989.

On consideration whereof, it is now  
here ordered and adjudged by this Court  
that the order of the said District Court  
entered December 23, 1988, be, and the  
same is hereby affirmed. It is further



ordered and adjudged that on remand the said order should be modified in accordance with the appendix to the opinion of this Court. It is further ordered that the mandate of this Court shall issue forthwith. Costs taxed against the appellee. All of the above in accordance with the opinion of this Court.

ATTEST:

Sally Mrvos

Clerk

June 28, 1989



UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

NOS. 89-3030, 89-3043, 89-3069, 89-3070

---

JOSEPH E. HUDAK

VS.

ROBERT WOODS,  
MICHAEL S. GEISLER  
RICHARD O'BRIAN

Robert Woods,  
Appellant in Nos. 89-  
3030 and 89-3070

---

JOSEPH E. HUDAK

VS.

ROBERT WOODS,  
MICHAEL S. GEISLER  
RICHARD O'BRIAN

Michael S. Geisler,  
Appellant in No. 89-  
3043

---

JOSEPH E. HUDAK

VS.





ROBERT WOODS,  
MICHAEL S. GEISLER  
RICHARD O'BRIAN

Richard O'Brian,  
Appellant in No. 89-  
3069

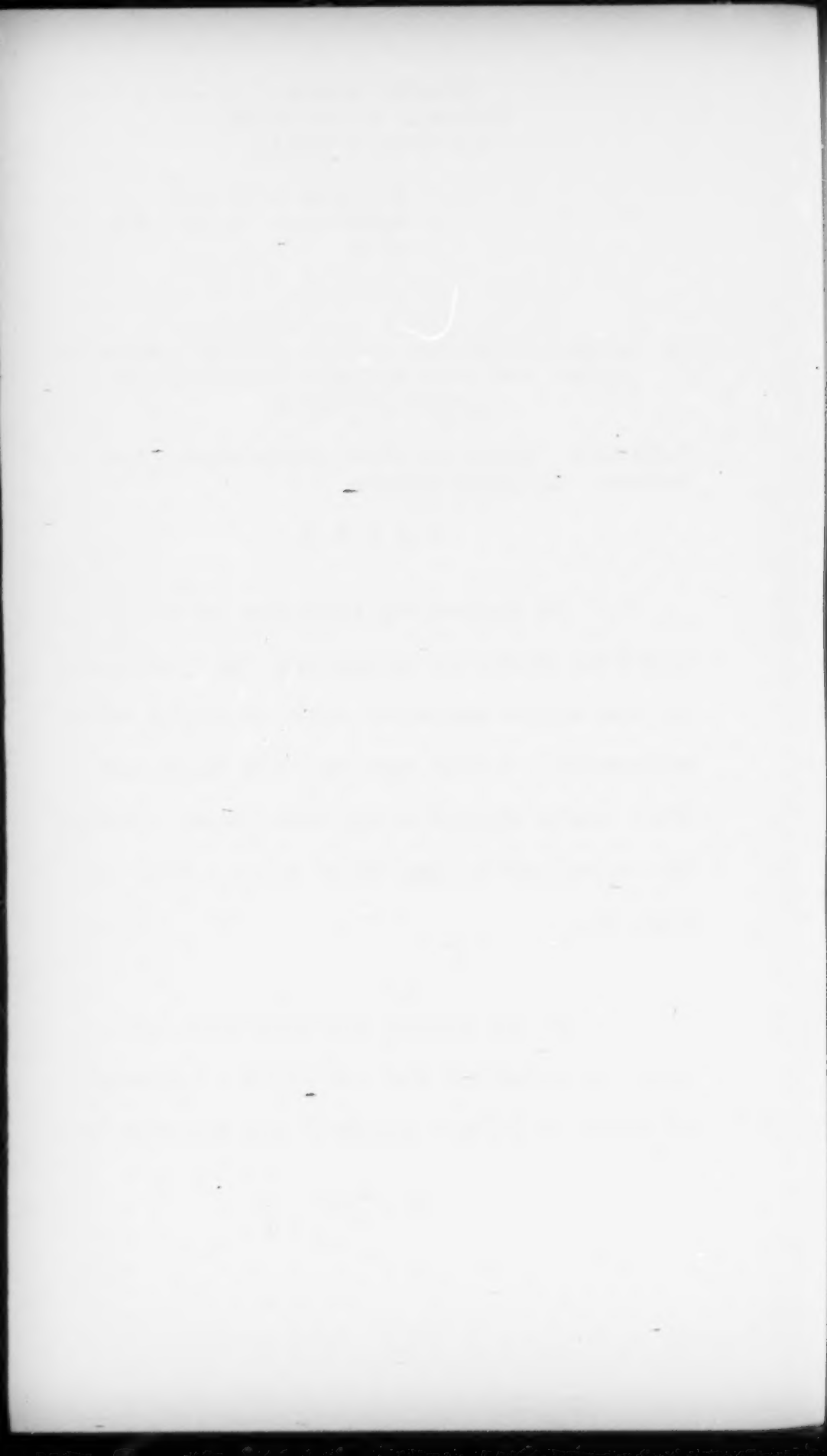
(D. C. Civil No. 87-1999)  
ON APPEAL FROM THE UNITED STATES DISTRICT  
COURT FOR THE WESTERN DISTRICT OF  
PENNSYLVANIA

Present: Higginbotham, Stapleton, and  
Rosenn, Circuit Judges

O R D E R

It appearing that due to a  
clerical error in preparing the judgment  
in the above-entitled appeals costs were  
erroneously taxed against the appellee  
when costs should have been taxed against  
the appellants, See Rule 39(a), Fed. R.  
App. P.,

It is hereby ORDERED that this  
Court's judgment and certified judgment  
in lieu of formal mandate are amended to



substitute the word "appellants" for the word "appellee" in the fourth sentence of the second paragraph of the said judgment and certified judgment in lieu of formal mandate

For the Court,

Sally Mrvos, Clerk

June 30, 1989